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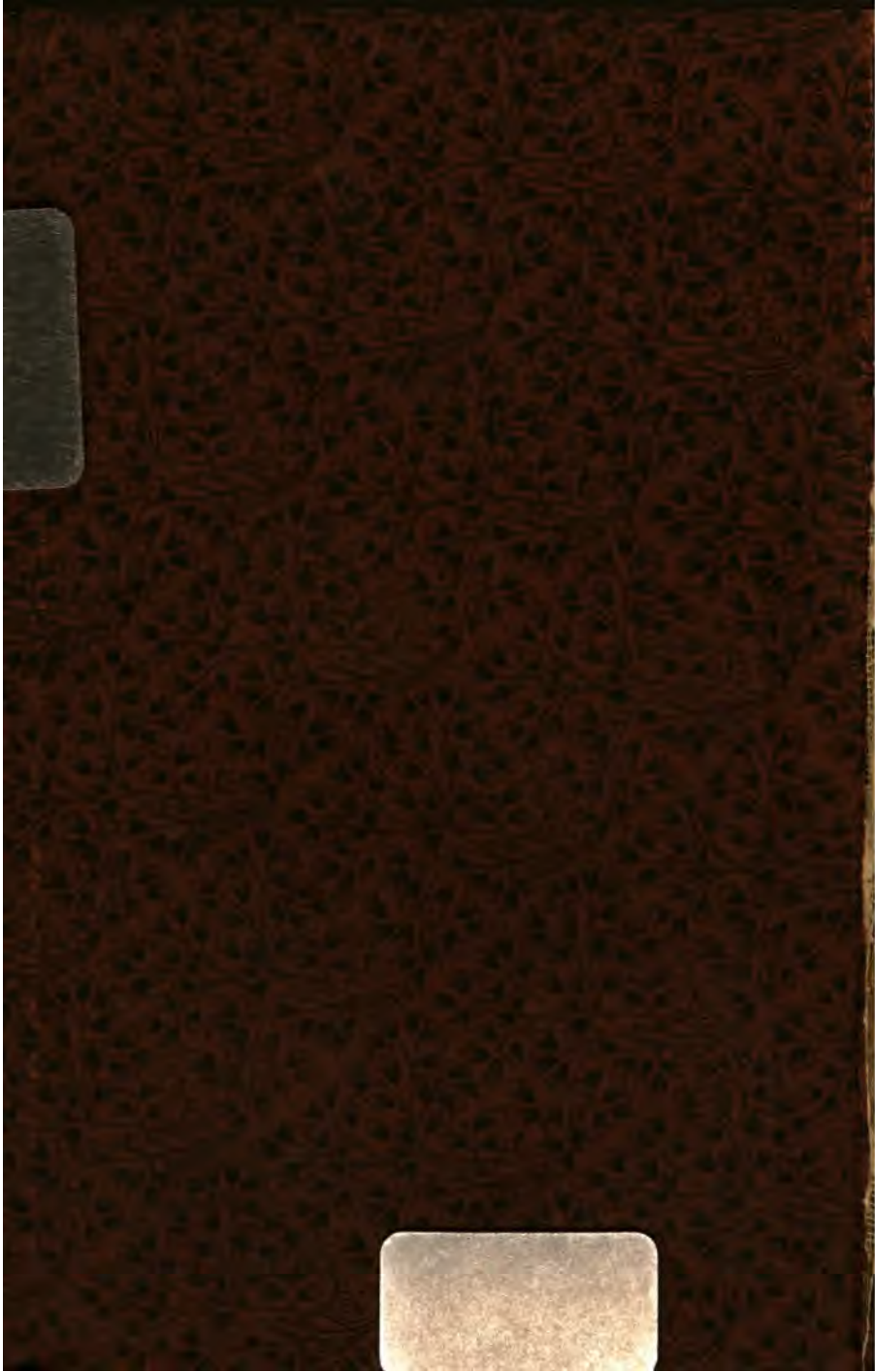
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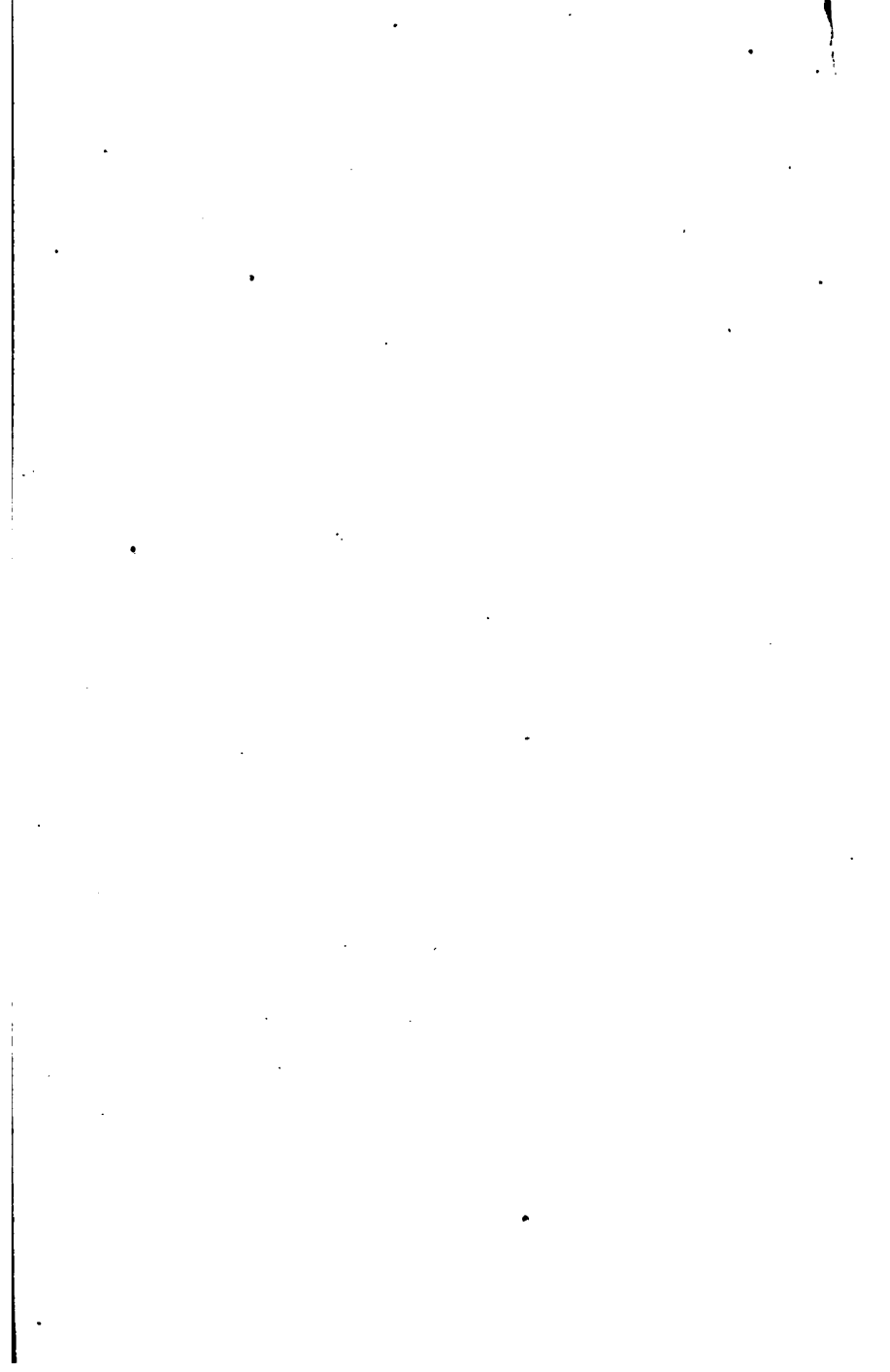
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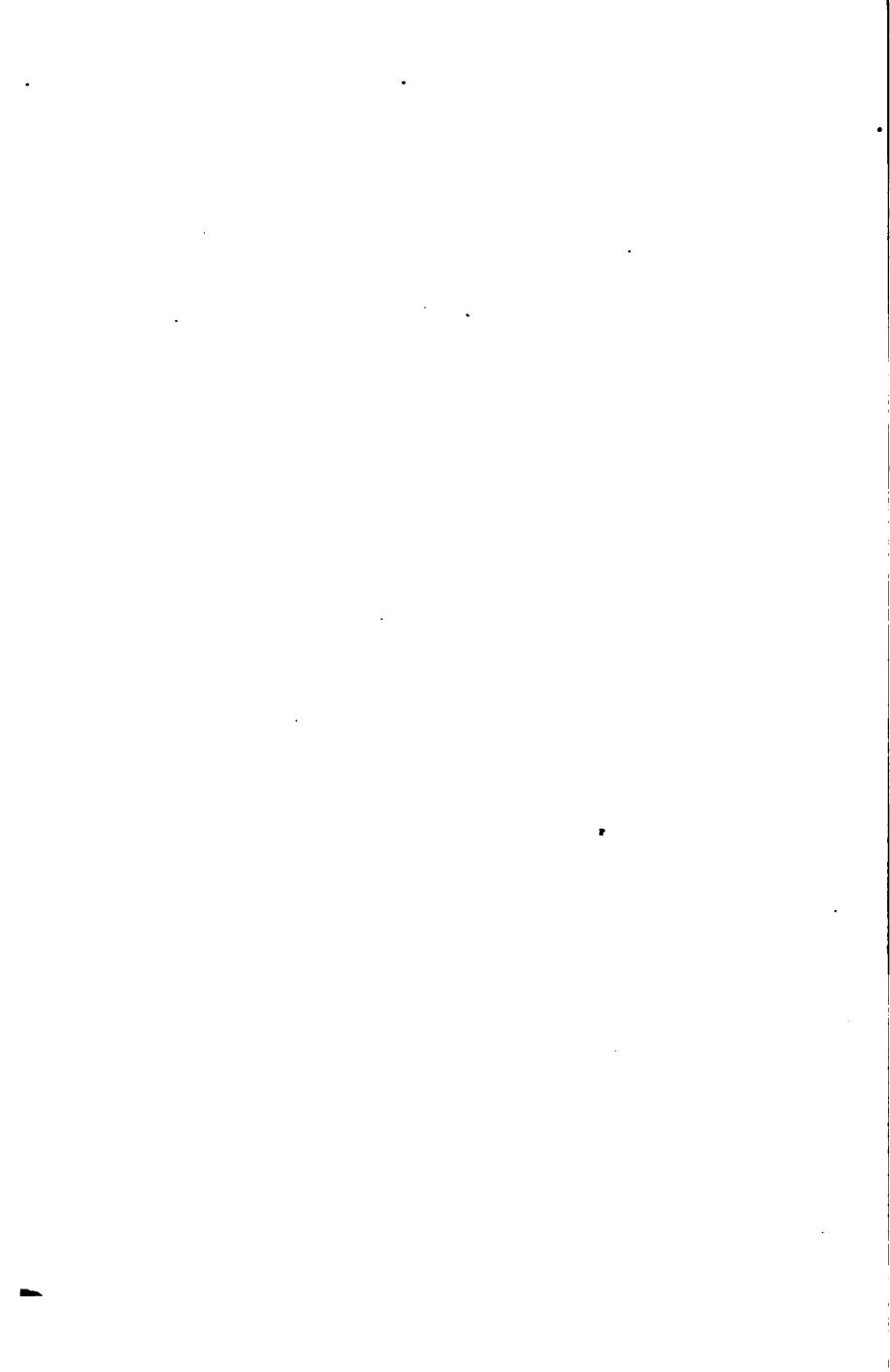
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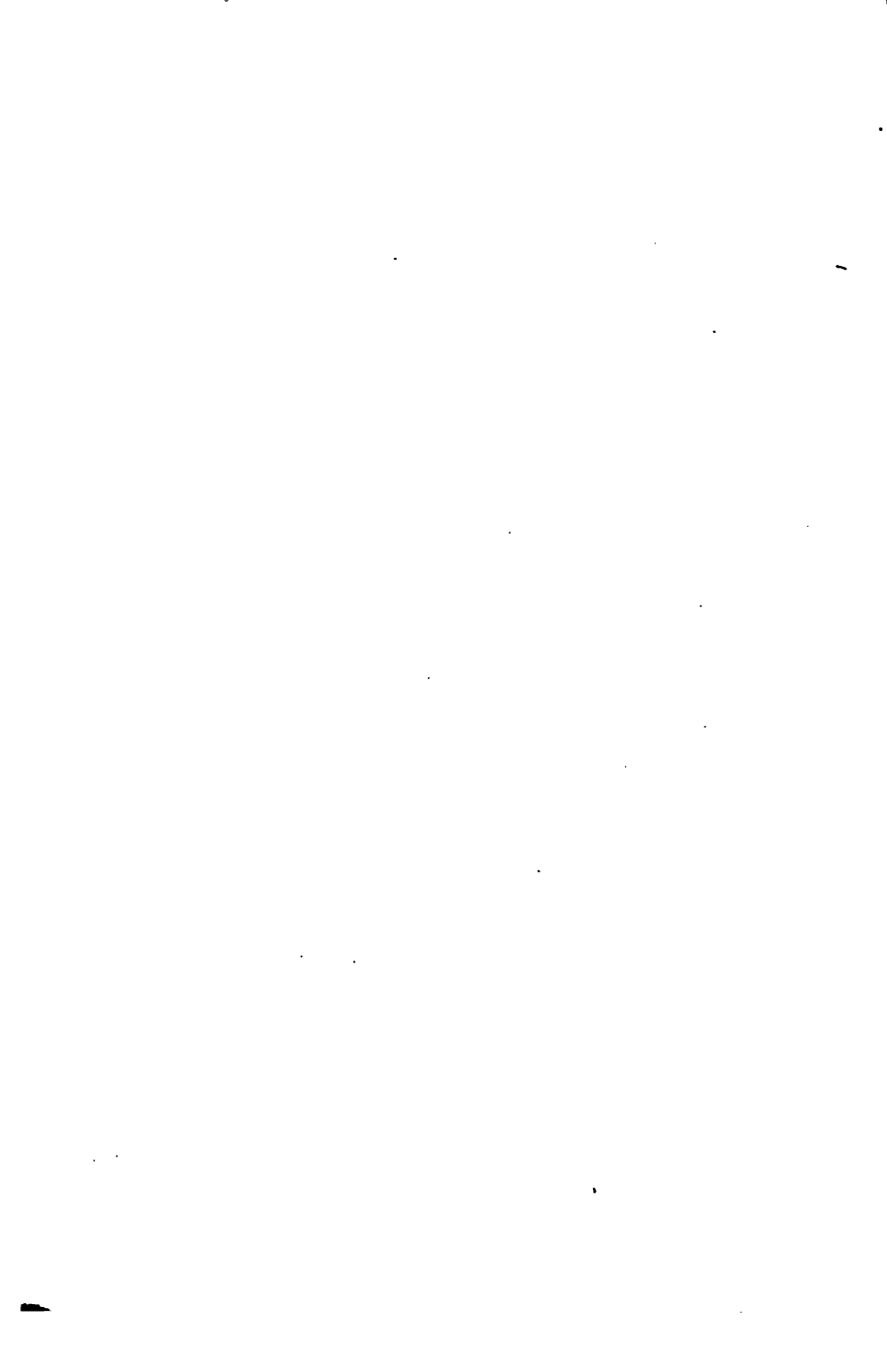
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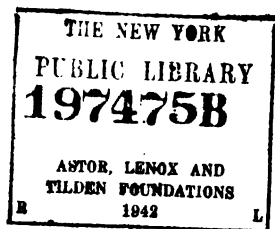
Threescore Years and Ten.

"For every mood the world is heed,
And shaded from our own."

BY A LAWYER.

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ERRATA.

| PAGE | LINE | Read on title page "hued" for "heed." |
|------|-------------------|-------------------------------------------------------------------------------------------------------------|
| 11 | 13, | read "Maldrow" for "mulchous." |
| 28 | 13, | read "fearfully" for "tearfully." |
| 45 | 2, | read "brain" for "brethren." |
| 76 | 8 from bottom, | read "saved" for "savable." |
| 81 | 9 from top, | read "had" for "was." |
| 88 | 5 from top, | read "rouse" for "use." |
| 95 | 16 from top, | "1854" for "1834." |
| 116 | 2, | after the words "Bell weakened" add "and." |
| 124 | 13 from top, | a period at the work "neutral." |
| 125 | 3 from bottom, | read "thrice" for "twice." |
| 127 | 3, | for "slaved" read "slave." |
| 156 | 3 from bottom, | for "John and Hugh Rupel, sons of Elijah Rupel" read "John and Hugh Russell, sons of Elijah Russell." |
| 158 | 12 from top, | for "Lizemore" read "Sizemore." |
| 174 | 11 from bottom, | for "thumb" read "foot." |
| 176 | 9 from top, | for "intolerance" read "tolerance." |
| 181 | 5 from top, | for "Lizemore" read "Sizemore," also the 11th, 15th, 20th, 22d, 25th, 27th, 28th, 29th lines. |
| 186 | 17, | for "Lizemore" read "Sizemore." |
| 187 | 15, | for "Gillen" read "Gillem," also 18th and 25th lines. |
| 188 | 1 and 12th lines, | for "Gillen" read "Gillem." |
| 189 | 9, | for "granger" read "stranger." |
| 194 | 16, | for "Troutman" read "The front man." |
| 194 | 21, | for "mother" read "brother." |
| 196 | 17, | for "Chop Lack" read "Choptack." |
| 197 | 3, | for "Lizemore" read "Sizemore." |
| 200 | 11 from bottom, | for "on" read "or." |
| 210 | 12, | Omit "so that for his whole term." |
| 211 | last, | for "one" read "two." |
| 213 | top, | for "viscerated" read "eviscerated." [athwart.] |
| 223 | 4 from bottom, | for "ruins and thwarts," read "runs |
| 226 | 11 from bottom, | read "nurture" for "nature." |
| 236 | 5 from bottom, | read "aimed" instead of "tried." |
| 249 | 9 from bottom, | omit the word "including." |
| 252 | 17, | read "final" for "fine." |
| 253 | 8, | read "poking" for "joking." |
| 258 | 11, | read "risks" for "riots." |
| 261 | 4, | period at the word "retain." |
| 263 | 7 from bottom, | read "1864" for "1862." |
| 267 | 12 from bottom, | read "vests" instead of "greet's." |
| 268 | 12 from bottom, | read "established" for "abolished." |
| 273 | 3 from bottom, | read "properly" for "property." |
| 279 | 12 from bottom, | read "Court of Claims." |
| 280 | 11 from bottom, | read "in" for "to." |
| 289 | 9, | read "Judge" instead of "lawyer." |
| 295 | 17, | read "disparity" for "depravity." |
| 299 | 4 from top, | read "utterances" for "assurances." |
| 299 | 14 read, | "morality" for "morally." |
| 301 | 7, | read "me" for "the." |

Wright Haven 20 July 1942



PREFACE.

THE author said to a professional brother, "I sometimes think of writing a book." "But, *cui bono*," the brother said, "if your book shall be real, and not merely artificial, true to nature and facts, it may be useful."

To represent human nature truthfully, its deep depravity must be made prominent. To heroize the devil is to exhibit a devilish spirit; to whitewash crime is to blacken the heart. Man's natural selfishness and vanity prompt the concealment of his greatest deformities; and, as a consequence, one man can not disclose the real character of another, except in general outline. Therefore the individual must reveal his individual character, if the nature is to be understood. It is true, as selfishness and vanity are the common traits of human nature, the individual may under their influences misrepresent himself. But there are apt to be hypercriticisms applied to such a work; and if there be any just reason to suspect falsehood, it will surely be discovered.

The author's object has been to develop human nature, not in abstract speculations, but in the history of such facts of his own life as he has thought necessary to his object and proper to state; because example is more impressive than precept.

Sugar-coated pills are prepared for little children and very delicate stomachs. If there be anything of the nature of a pill in this book, the reader will excuse the absence of the sugar-coating. Medicine taken straight is usually most efficient, but there is no malice at the bottom of the draught.

Reader, trace this life; mark every step; study its moral bearings. There are few things to imitate, many to warn and shun. May it help you to choose the good and reject the bad in your own life's record.

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THREESCORE YEARS AND TEN.

CHAPTER I.

HUMAN life, the gift of God, was a rich endowment to the parents of the race. The rational soul, made in the image of its Creator, and placed in the most perfect of all material structures, was the last and noblest work of creation. And, though by a breach of plain duty they involved themselves and the generations of men in a common condemnation, yet in the infinite wisdom and goodness of God the soul was not wholly extinguished, nor the body immediately relegated to its original dust. A probation was granted, and will be extended to successive generations to the end of time, that the justice of the Lawgiver may be vindicated, and his wisdom and mercy, in the scheme of man's recovery, revealed.

Man's soul is in a moral eclipse, and, as to the chief end of his creation (the glory of the Maker and his own blessedness), is in gross darkness, preferring evil to good, wrong to right, and so wedded

to his delusion that no mere human power can dispel the darkness. If this were his unchangeable state, immortality would not be desirable; but, happily, there is hope for those who have, are, and shall be wise to embrace the remedy. In the lapsed state of humanity, birth is an awful event, little as the thoughtless world think of it. If it were a moth to bask in the balmy sunshine for a brief life of hours, or a lamb to gambol on the green lawn and live its short but useful day; or if it were the eagle springing from her craggy nest, floating over the rough sea, holding in her talons the young eaglet to teach it how to fly, a sensitive mind would admire and wonder. They bask, or gambol, or fly their brief day and die, and are no more. Not so the child of man. Born to a short stay in this world, walking through sunshine and shadow, alternately laughing and weeping, joyful and sorrowful, healthful and sickly, until death of the body and an eternity of blessedness and misery beyond, no such other being is known in the universe. The man of threescore years and ten, standing on the border line which runs between time and eternity, looks back to his earliest perceptions of life and traces, as in a panorama, the winding path he has trodden over hills, mountains, valleys, plains, rivers and seas in calms and tempest, in the school, in the college, in the law-office, in the courts, in the world, and writes upon all, "Mene, mene, tekel, upharsin"—all is vanity. It is well to look back through the years, and, as

from an open book, read lessons learned through hopes and fears never realized, but ever recurring with the shifting scenes of life, and learn therefrom that life is an awful reality weighted with the burdens that must be borne on earth, and freighted with an endless joy or sorrow beyond. The time and circumstances of every birth have much to do with the after-life. It is true all are born upon an equality in the sense of the mode of birth. Infancy, youth, manhood, old age, flesh and blood, and a common mortality. But there is almost illimitable diversity in the actual conditions of the members of the race at birth and childhood (with some exceptions), and this variety marked so early gives character and condition to the after-life. The immortal principle is the same in all human beings, but the medium of development of the soul has that characteristic which marks the individual of all varieties of species. It is adapted to a given plane or theater of action. The individual must work on that plane, act its part on that theater, and stand in its lot at the end of its days; that, when the vail which covers eternity shall be lifted, it may receive its reward according to its capacity and opportunities and their improvement.

In this there is no fatalism. Man is neither a stock nor stone, but a free moral agent. His own consciousness reveals it. And it is this free agency which makes life an awful reality. Every man at death has made a character; God has not made it

for him; neither has the man made it independent of God. Let the serious reader ponder this truth, "that he lives, moves and has his being in God," and is subject to him. Yet he makes his own character, and, therefore, makes his own ultimate condition. "For as the tree falleth, so it shall lie." When a man lives threescore years and ten, we suppose his observation and experience will furnish much of interest and instruction. And while the aged do not even imagine what they have seen or felt, have been so peculiar as not to have their synonym, yet the seeing and hearing, doing and feeling, of the individual himself, or, in connection with others, make the common experience personal and interesting. Though we know all men must die, and any one may die at any moment, yet how a sudden death of an acquaintance startles us. It makes the common experience personal, and speaks to the heart, "I, too, am mortal."

CHAPTER II.

A NATIVE of Kentucky, his parents were poor, but respectable; his father, a Presbyterian clergyman, his mother a Christian woman of the same Church. His early childhood was passed in a log cabin; and his most distant memory recalls that little cabin with its hole in the wall, out of which he looked at break of day to see the wolves leap the yard fence as his father hastened with his rifle, snatched from the rack to shoot the escaping wild animals. He was not so fortunate in the shot at the wolves as he was sometimes afterwards, when he took his eldest son "and coming man" upon a deer hunt with "mulchous pack" and his own swift-footed greyhound, "Music." The hunter's horn and the wild yelping of the pack soon started the chase; Music, voiceless but swift, took the lead in sight of the chase, and over hill and hollow, through the wild forest, the stag and the slut kept equal pace with long and rapid strides, while the pack behind came yelping on. Father and son, standing on the bank of the rolling fork, looked across to the top of the hill and saw the stag bounding down the long slope with break-neck speed, and "Music" hard upon its rear, and plunging in its flight into the river the father

fired his trusty rifle; almost at the instant "Music" sprang upon her prey, and the chase was over.

The log cabin was after awhile left for a more pretentious habitation in a different neighborhood, a "hewn log-house with a broad opening between the pens." A chimney at either end, and a cellar, was a step forward in the scale of social position. From this new home "the coming man," began his school life under the tuition of James Buchanan, afterwards Professor of Mathematics in Centre College. Here he acquired some rudimental knowledge of letters, as also of some vices. Unhappily the development of the intellect does not prevent the like development of human depravity. Indeed, a bad man's education in letters is often his greatest misfortune. The forger would never perpetrate the crime if he could not write. Knowledge is power, learning is admirable, and rightly used useful. Yet, if not directed by that wisdom which is the "gift of God," ignorance may be better. The harangue from the hustings platform and legislative halls calling for education as the safety valve of our social and political life, is like the chimes of many city bells, varied and musical. But is the voice of the "Sweet Singer of Israel" heard? Are the teachings of Israel's wisest king heeded? Is the word of "Him who spake as never man spake" the foundation of all literary and scientific instruction in the schools, colleges and universities? Unless this is so, all else is but the cultivation of man's powers for the service of

the Devil. Human nature gravitates to the deepest gulf of sensual appetite. Worldly wisdom, which seeks to gratify man's natural propensities, only quickens the pace to the fatal end. But rural life and agriculture, with their moralizing influences, were not to be the lot and vocation of the young "deer hunter." A still more pretentious habitation, in the near-by village, became the new home. Schools were kept up in the village, and some of the teachers are remembered with real affection; as Proctor, Charles Philips and James Buchanan. But one Irish Roman Catholic (embryo) priest, named Toland, "by some means got the village school." Whether he had come to America from a potato patch, or a boy's reformatory school, or without any special antecedents, is not known. As the slave is often the hardest master, this man may have imbibed the spirit of tyranny from his experience or observation in his native land. One thing he taught efficiently—that authority, though small and brief, can make itself feared. The vow of celibacy, which cut him off from the love of woman, may have severed the cord that should have bound him to the race. His religious prejudice may account for his want of sympathy with the children of Presbyterian families. For soon after his exit, a lively contest sprang up between the "head centers of Romanism, (at St. Rose and St. Joseph's,)" and the said Presbyterian clergyman, which culminated in a personal and ecclesiastical discussion at Bardstown, between the

clergyman and the Roman bishop David, before a large audience.

In that man Toland was seen the type of the Romish Church in all its past history. From the year 606, when the Emperor Phocas acknowledged the supremacy of the Popes, to Innocent the Third, who inaugurated the inquisition, and to the close of the eighteenth century, aggressive, insolvent and tyrannical in enforcing its false doctrines and practices upon the ignorant and credulous multitude, it has been and is the "Hand Maiden" of infidelity; and will in the end (if there be any fulfillment of prophecy, as now interpreted) be the open ally of Atheism. In this thought there is something for the people of the United States to consider. If Popery and infidelity are to be the force arrayed against the forces of the Christian Church in the final struggle between religious "truth and error;" and if these forces are to be physical, and the conflict between "hosts of armed men;" and if the "twelve hundred and sixty years of the Apocalypse terminated in 1866," as "Faber thought it would, and within seventy-five years from that period, this great and decisive battle must be fought (eleven years of which have already passed); and if emigration to the United States shall continue at the present rate, and Europe and Asia throw off upon our shores "the Roman Catholic," "the Nihilist," "the Jacobin" and the Cummune, and thus sieve their populations of their dregs and scum until we reach the

sum of "one hundred million in forty years"—where is this great battle more likely to be fought than (as Baldwin thought) in the valley of the Mississippi? Village life is a capital nursery for speeding the boy into the *quasi* man. Chewing tobacco and smoking cigars are men's habits, and display maturity, and the boy thinks dignity, and the woman has learned to imitate; thus by the example of father and mother is hastened the maturity of the children. Although neither of the boy's parents set him such an example, yet he became "manly" in these particulars, by his associations in village life. And while apt to learn letters, his aptitude for things less valuable did not suffer in the comparison. His growth in knowledge from books and the by-paths of village life, gave him a very mixed character. And but for the antidote of his loved mother's prayers and his father's earnest exhortation and pungent discipline these "by-paths would have led him down to Hell."

An incident will show the progress made at about eleven years of age. The village school had been left and the academy at Bardstown entered, home left and boarding obtained in the family of the Hon. Charles A. Wickliff. (And here must be expressed the most grateful memory of that distinguished man and his most excellent wife.) The principal of the academy was reputed a good educator; his discipline was very rigid. On a bright autumn morning, on the way to the academy, news came of a "cock fight" at a little

distance, and having a taste for that cruel sport, the boy of eleven diverged from the way to the academy and found himself on the battle ground of the "cocks." Thus the morning lessons were lost. In the afternoon the truant was called to account, and he bears the marks of that settlement on his left shoulder to this day. Such severity created some excitement, and the boy was allowed by his father to remain at the academy or return home. Young as he was, he knew punishment was deserved, and chose to remain at school, and ever after, while there, was treated by the principal with much kindness. Here is seen the propensity to evil on the one hand, and the consciousness of right and duty on the other. This conflict has been kept up with alternate victories and defeats. His natural conscience and parental training by precept and example has kept up a constant warfare against strong native inclination to evil. Let the young who read these lines, prize as the most valuable of all gifts, "that moral sense which results from a conscience enlightened by religious truth, and a heart educated to Holy affections by Holy example."

CHAPTER III.

WHAT son or daughter ever appreciated an affectionate Christian mother until she was taken away, or who can value the loss to childhood and youth of such a mother? Who shall take her place to watch the wayward steps of childhood? Whose heart shall, like a bubbling spring, continually swell and overflow in prayer and tears for those loved ones like hers? As mother and child is the nearest natural relation, so springs from it the deepest and most undying affection. But "sad truth," there is a great disparity in the strength and durability of the mother's love and that of the child. While natural affection and gratitude should make the child's love of the mother the stronger, it generally, if not universally, is the weaker, as common observation proves. While the boy was less than fourteen years old his mother died, uttering with her last whisper the words of the disciple Thomas, "My Lord and my God," and, blessed faith, realized that, as she called him, he came and took her to his own heaven. This event marked an epoch in the boy's life. "There is no home without a mother." Being the eldest child, with three brothers and two sisters living, all younger than himself, and the father's ministerial duties often

calling him away, after a short effort to keep together, necessity separated the children. But the father's heart was with his children, and a second marriage seemed a necessity. Having been invited to Lexington, he formed the acquaintance of a widow of some fortune (who had two sons by her former husband), and, in due time, a marriage was consummated between the clergyman and the widow. And, soon after, the clergyman was called to the First Presbyterian Church of that city, where he continued to minister about twenty-seven years. The scattered family were gathered to the beautiful home of the step-mother joining "Ashland," the home of the great and wise statesman, "Henry Clay." This was a wonderful transition from the "log-cabin," with its hole in the wall, to the stately mansion with its "halls octagon, and rotunda, circular drives, lawns and woodlands." Thus, at that early age, "the coming man" had passed through three stages of social life (as the world calls it), and was now entering upon the fourth.

The novelty of the change excited temporary interest, but, in the nature of things, this could not be home; and a shifting, changeful life was to be his lot in his nonage. Eight miles northwest of Lexington the Rev. Robert Marshall ministered to a small church, and taught at his home. To this school the boy was sent, and happily lived in his family; he was a learned and godly man. No better situation could have been selected by his

affectionate father for his wayward son. And there is no memory of the boy's youth which brings more pleasant and profitable reflections to his mind than the time spent in the family and under the tuition and example of that revered and greatly esteemed man. Here the boy remained until ready to enter college. The University at Lexington, the chief literary institution of the State, was presided over at that time by Dr. Horace Hawley. Though learned and accomplished, his religious opinions were not in harmony with the Presbyterianism of that day. In the meantime, an infant Presbyterian College had been organized at Danville, called Centre College. In this institution James Buchanan, his first school-teacher, was Professor of Mathematics. To this institution the boy was sent, and entered the "Sophomore Class." Through the fifteen years of his past life to his entering college, the boy's youth had been observing, but not analyzing or comparing so as to shape his experiences into practical wisdom. Memory stored away passing events to be called up when the currents of life should flow less freely and the rush to reach manhood and maturity should be over. It would be treason against the sentiment of the nineteenth century to impeach the methods of popular education now in use. So much is promised towards the elevation of human character from expanded scientific knowledge, reformation of morals, social and political security, that we are tempted to look upon our present educators

and political teachers as leading the human mind out of its native darkness and the nation out of the wilderness of its ignorance. It may not be wise to attempt a comparison of literary, scientific and moral culture in "1800 and 1825." But if the instruction and discipline are of like character as then, the diligent student may become a Nathaniel Rice, a Joseph Holt or A. O. P. Nicholson. But useful knowledge is not always (perhaps not generally) appreciated. Many doubtless, go to literary institutions more for the reputation of learning than the acquisition of useful knowledge. There is a small proportion of those who enter such institutions who make such public demonstrations of knowledge above others as to vindicate the utility of their collegiate course. While at college the eccentricities which marked the youth's earlier experiences were more fully developed—with no special fondness for or aversion to books, but full of animal life, his studies were not allowed to interfere greatly with his social pleasures. Usually in his class, often with little preparation for its exercises, he managed to keep his place but with the loss of much precious time. The ball-room and social parties often kept him out and up to late hours, which, of necessity, made him a late riser from his slumbers. It was after an evening spent in this manner that his morning slumbers were disturbed by a very sedate and diligent fellow-student. The manner of the disturbance was not necessarily intentional, but such as to cause a re-

monstrance, which was met by insulting language. Quick of temper, a blow was given, which, from the fall on the stairs, was dangerous. The injured student reported to the faculty, which resulted in the practical suspension of the offender from the college. This is just an illustration of the discipline of that institution at that early day in its history. It was a rebuke to that false pride which the example of Kentucky fathers had cultivated in their sons until the common sentiment amongst old and young was that "words justified blows," and a young man who failed to strike when insulted was a coward. The boy's chivalry on that occasion was only an instance of the common practice of the chivalrous youth of his day. Bloody noses and battered ribs were the certificate usually exhibited of their honorable bearing. In the olden times men established their rights under the law by the gauge of battle, practically "might made right." This rule of law probably grew out of the idea of a special providence overruling all things, and that providence would always vindicate the right by the result of the battle; a very jejune conception of Divine providence if entertained, or did it spring out of the notion that physical power is an evidence of a higher nature—as the lion is called the king of the forest and sways his scepter over beasts. If so, does it furnish any evidence that man's physical organization is only the development of the monkey? Darwin's theory would have been more plausible if he had

derived man from the lion. Even before entering college, "the coming man" had shown some small manliness towards the fair flowers of his race, and with his college growth grew also his admiration of female society and beauty. Not much like an "ourang-outang" himself (*maugre* Darwin's idea of his development), his youthful gallantry was not repulsed so as to snub that vanity which a tolerable physique and shallow judgment generally allows a large margin. That he attained more character as a "beau" than a "scholar," is not more than reaping as he had sown—a harvest of tares, cockle and cheat which feed memories, the natural product of such sowing and reaping. Though not guilty of the sacrifice of female chastity, heartaches and tears of tender natures are the common effects of false professions and broken promises. "Young man," hear and heed the warning; never profess what you do not upon deliberation feel, and never promise that which you can not, or will not, perform.

While at college, he knew a young man who made the acquaintance of a very handsome young lady of excellent family and social position. At a Thespian recital, fascinated with her, he attended her home, and very soon after made formal professions of love to her. An engagement, as it was called, soon followed. The young man continued his attentions to this fair, trusting and loving girl while he remained at college, and promised when he should have completed his professional studies

to return and make her his wife. He went away and, after a time, met with another beauty which developed the shallowness of his nature. He made love to her, and made an engagement with her also. Before he had obtained his professional license, business required him to pass through the town where his first affianced lived, and it so happened that he saw her on the street and she recognized him. Confused, and skulking from an interview, he hurried to get out of her sight, which she saw, and uttered a cry which went through him like a shot from a rifle. And while his mean and cowardly spirit made him fly from her, his conscience gored him as with a red-hot iron. Not very long after, this young man's second engagement was abandoned, and a third, a fourth, perhaps more, made, and all, like the first, dropped. Some years after he was licensed as a professional man, his business required him to go into the lower counties of the State. At one of the county towns, he went after night to see a lawyer resident there, in whose parlor, much to his surprise and confusion, he saw her to whom he had first, while at college, plighted his faith. Her pride and self-respect kept her silent, and he dared not recognize her. Next morning she sent a message to him to come to see her, but his cowardly heart prompted a lying excuse and he went away. Two years afterwards he passed through the same town and intended to visit her, inquired for her, and learned she was dead. That young man carried with him ever

afterwards a remorse which, but for the shallowness of his nature, would have been unbearable. This was a crime; not the legal crime of seduction, but moral perjury and cruelty. The man, old or young, who will win the affections of a tender, confiding and loving heart, and be false to such a heart, is a "monster, and nothing but the depravity of human nature and the domination of the male race prevents its punishment as a legal crime nearly allied to murder." In the sight of that "great King, before whom all must stand at last, such crime shall meet its reward." Let me entreat young men to beware of trifling with such affections. Love all virtuous young ladies as your sisters, and let no false whisper ever escape your lips to cause them sorrow. Remember, she is the weaker and you the stronger. Would you be willing to see your little sister beguiled into an unrequited affection by some gay and wayward youth? The tears of innocent and true love betrayed are bottled up in heaven, and may be poured out in burning waters upon the "betrayers in the great reckoning."

CHAPTER IV.

KENTUCKY chivalry having brought him into disgrace, college life was over. A profession must be chosen. Though designed by his father for the Christian ministry, not only for the intrinsic excellency of the calling, but, it may be, to keep up a succession in the family to the fourth generation—the great-grandfather having been a minister of the Church of England; the grandfather a Baptist minister, and the father a Presbyterian minister—but while a mere lad he acquired some taste for the legal profession.

In the village before mentioned, two important criminal cases were tried in the Circuit Court which greatly interested him. An aged father, named Rivers, became intoxicated, went home in that condition, quarreled with his aged wife and attempted to use violence on her, when his son, a young man, interposed to protect his mother. The drunken father turned upon the son, who retreated out of the house, across the yard and, as he attempted to escape across the yard-fence, the father plunged his knife into his side and killed him on the spot. Judge Kelley presided; William Booker, Esq., prosecuted, and the old man was defended by John Hays, one of the most eloquent men at

the bar at that day. Notwithstanding Hays made a most pathetic argument upon the false ground of self-defense, the jury returned a verdict of murder in the first degree, and the old man was sentenced to be hanged. The Romish priest administered to him in prison according to the rites of that Church, and, on the morning of the execution, it was said his spiritual ministry took the form of apple jack or corn whisky, and so he was executed.

The father of the would-be lawyer had a brother-in-law who was a distinguished politician and advocate. The way was thus open to the young man; under these auspices he took up Blackstone. His preceptor was not only a lawyer but a politician, and at that time a member of the Senate of Kentucky; and as there were several political questions then hotly discussed, in which the Senator must take part, and having lost his right hand, the student became his amanuensis and wrote from his dictation, thus mixing law and politics in the very start of his professional life; and as the practice of politics required no special certificate (of honesty, probity and good demeanor) or a sanction under the hands of two judges, his politics got ahead of his law. Thus for months this dual employment of learning that "law is a rule of conduct" on the one hand, and discussing relief laws, banking, old and new courts, federalism and democracy on the other, the student, as his preceptor thought, had developed more genius for the life of a sailor than a lawyer. He there-

upon proposed to procure a commission as midshipman in the navy for him from his brother-in-law, J. Q. Adams, at that time President of the United States. To this the student assented without consulting his father, as he should have done. Within a very short time said commission came from Sam'l Southard, Secretary of the Navy. The Senator was required to go to Frankfort, Ky., as the Legislature was about to meet. The student, *alias* midshipman, wished to return to his father's at Lexington, to let him know of this revolution in his plan of life. So the Senator and midshipman started, going by Louisville, reached Frankfort on the night before the meeting of the Legislature; they lodged at the principal hotel, called the Mansion House. When the servant came up to kindle the fire in the morning, they were startled by his statement that Col. Sharp was dead; had been assassinated at his home. Hurrying to the street, they found it thronged with excited crowds. Col. Sharp had been a prominent lawyer in Frankfort and one of the chief leaders and supporters of the relief, or new court party; and it was suspected by some of his friends that his death was a political murder. This idea was soon dispelled. Dr. Sharp, brother of the murdered man, suspected the murder to have been committed by Jeroboam O. Beauchamp; and in the course of the morning it was ascertained that Beauchamp had lodged that night at "Scotts," near the penitentiary, and had left very early that morning. A party of horse-

men started in pursuit, and came in sight of him as he came in sight of his wife at his distant home, and saw him raise the token of his success. He was arrested and brought to Frankfort, and the student's preceptor (the Senator) was employed as his counsel and defended him on his trial.

This transaction with its tragic close has been dramatized, but the story is a short one. Sharp had won the heart of Miss Cook and married another. Miss Cook resolved on revenge. When Beauchamp proposed marriage to her she consented upon condition he should kill Sharp. He agreed, and executed his marriage contract. Tearfully did Sharp pay for his perfidy, and most fearfully did this *deluded* woman and her husband pay for her revenge. Leaving Frankfort on that day, the newly fledged midshipman hurried to Lexington to see his venerated father, somewhat doubtful of the reception he should meet. Still under lawful age, his father might interdict his new plan; and might justly be offended that he had not been consulted. Reaching home unlooked for, some surprise was created. The commission was duly exhibited. Instead of sharpness and rebuke, the idea of such a life for his son broke his father completely down. "My son," said he, "I can not consent that you shall go to sea; it is a life of dissipation and wickedness, and would be your eternal ruin. I would regard you as lost."

Rebuked and subdued, as well by the tenderness of his manner and his evident solicitude for his

son's safety and welfare, the son could make no answer. He was disappointed and felt his situation embarrassing. Very soon an order came from the Navy Department, commanding him to report to Commodore Ridgely, off Pensacola, for duty. The crisis had come; desiring to go to gratify love of adventure and a sort of wild ambition, yet the son could not break over his father's remonstrance and authority, and finally resigned his commission. This was a most judicious step, for with his high temperament and the common practice of dueling in the navy at that day, he would probably have fallen himself, or committed murder by that barbarous custom. So the quondam midshipman became again the plain student of the mysteries of English and American jurisprudence, under the instruction of Gen'l Robert E McAfee, then Lieut. Governor of Kentucky, and author of "War in the West in 1812." This new arrangement brought him in close contiguity to the late most pious Rev. Thomas C. Cleland, D. D., who had performed the marriage ceremony of the student's parents, and preached the funeral sermon of his sainted mother. The student became a constant hearer of his most earnest and eloquent sermons; and had the benefit of his wise and paternal counsel while he continued his studies. One of the lessons learned from him was, "that the things are little things; that pigmies perched on Alps are pigmies still; and pyramids are pyramids in vales." This aphorism has its

illustration in all departments of political, professional or social life, but the world does not act upon its truth. Men love to be humbugged. The fool loves to be told he is wise, and he believes it. The people love to be told they *know it all*. And the man that tells them so is the people's man; and he may just have sense enough to know that little speech will win popular favor. So that the pigmy on the Alps may be higher than the pyramid after all. In the human mind there is a proneness to estimate things according to surface measure. Littleness and greatness are positive terms; but as applied to mental and moral forces are extensively relative. True greatness is always found in company with true goodness. Littleness may always be known by its modes and ends. To seek the glory of the Creator and the happiness of the rational creature is the sum of all true greatness. To attempt to dethrone the Deity and destroy the Christian hope is the sum of all littleness. How do the Apostle Paul and Robt. Ingersoll illustrate this truth?

CHAPTER V.

WHILE pursuing his professional studies, under the direction of that noble old General R. B. McAfee, the student had an opportunity to learn a little practice in the matter of taking testimony. A Mr. Boyce had a suit pending on account of defect in certain property bought by him, in which it became necessary that he should have the evidence of Col. Beaufort, of Laurel County, and the young student was employed to take his deposition.

Leaving Stanford, in Lincoln County, before sunrise, and entering a long stretch of road thickly shaded on either side by dark forests, he saw, in the dim distance, a man coming. When near enough to distinguish him his appearance was very striking. A colossal figure in rough garments, with face concealed by an old hat, and his huge head bowed toward the ground; and his walk, that of a man intoxicated. At that early hour his appearance and manner excited surprise, and mistrust that all was not right with him. The student, well mounted but unarmed, watched the strange figure walking in the center of the road and seeming to take no notice of him. He turned his noble horse out of the way, and when just passing

a few steps apart, the figure suddenly stopped and fiercely cried, "Stop!" The student answered, "Go to town and get more whisky!" supposing him to be drunk; and while his horse quickened his pace the figure stood silently looking after him until lost in the distance. The student stopped at "Mount Vernon" for breakfast and mentioned to Mr Shelton, the inn-keeper, the incident of the morning. Mr. Shelton, in much excitement, immediately said, "That was Owsley; he is a madman and loose; doubtless has broken out of his confinement, where he has been kept chained to the floor. A short time ago a negro boy went to make his fire, incautiously went too near him, when the maniac snatched a billet of wood from his arm and killed him on the spot." The student then began to feel alarmed. Indeed, if this madman had been met under different circumstances the student would not have been on his guard. The residence of Col. Beaufort was reached, the deposition taken, and the student, returning to Stanford, learned that Owsley (for it was he) had gone into Stanford that morning, cleared the streets, marched up and down, raging like an uncaged wild beast. At length some brave young men (Hunton and Logan) armed themselves, and, going into the streets, met the madman, and, under cover of their guns, compelled him to surrender. They secured him and took him back to his cottage and his chains. Several years afterwards the student passed by the place of that unhappy man's

confinement and learned that he was dead. He was the brother of the then "Judge Owsley, of the Supreme Court of Kentucky," and a promising young man; but became attached to a young lady who did not reciprocate the sentiment, and, having strong impulses springing from an ardent nature, the strain upon his nerves overthrew his reason. The meeting with that wild man, of gigantic stature and fierce irrational spirit, at that early hour in that dark wood alone, and distant from any human habitation, with no knowledge of his history or character, has often been the subject of thought through all the past years. Was that meeting accidental? Yes, as to the madman and the student. Not to God, who had brought that youth unconsciously within a step of death that he might afterwards see the hand of a Divine Providence in his escape from the "real, though unknown, danger."

Those who deny the doctrine of a special providence may take this incident as an argument against them, and answer it if they can. The sense of a divine presence, in every event of life, should be cultivated, not as an imagination but a blessed reality. Many deny the doctrine, but few the fact. The professed skeptic, in the face of great present danger, instinctively turns his thought to God as his only help or his dreaded avenger present in the sickness incurable, in the flood, in the storm that sweeps him away. The rational soul, under the influences of its native de-

pravity, may take pleasure in the play of its powers, to feed an ambition to appear what it is not in the vain attempt to vindicate error and vanquish truth. But such intellect only communes with the baser sensibilities which gravitate downward always. But danger which ushers death, flashes the truth with electric light and force upon the soul, and its basé illusion is gone. To deny a special providence is to deny any and all providence, which is practical atheism. May it not be doubted whether there be, in the proper sense of the word, an atheist in the world? Is not all professed "skepticism the result of an inordinate vanity to appear learned and wise on the one hand, or the dread of that responsibility which attaches to broken law on the other. What a lesson does the life of Voltaire teach upon these points. A mind naturally gifted elaborately, cultivated in the knowledge of worldly things, with a tongue of silver "and a pen of fire," he set ablaze the mind of that volatile people which culminated in the infidelity and blood of the French Revolution. What was the end? A death-bed of woeful confession and horrible despair. It may be true that, prompted by vanity or fear, men may adopt and cultivate false theories, and continue to teach and practice them until, by habit, the mind loses its power to perceive the truth. And may not this be the meaning of that awful utterance, "Ephraim is joined to his idols, let him alone?" Fearful is the risk when the mind begins to dally with error

that it will be swept into an unfathomable gulf into which the sun will never shine. "Men love darkness rather than light." Why? "Because their deeds are evil." It is an absolute truth, verified by experience and observation, that the man who thinks aright, feels aright and acts aright can not be an infidel. "He who spake as never man spake" declared, "If any man will do His will he shall know of the doctrine, whether it be of God." If it is asked, Who shall be the judge of what is right? it is answered, man's conscience, before he has educated it to keep silent when he does wrong. It is neither man's intellect or his will, abstractly, which prompts him to wrong. His depraved sensibilities captivate both, and chain them to their pleasures and pursuits. The education of the heart is of vastly more importance than the cultivation of the intellect. To what extent do our educators appreciate this truth? are our schools and higher institutions of learning training our youth to intellectual greatness or moral goodness? Are they schooling the head at the expense of the heart, or in inordinate proportions according to the relative value? The world will not grow better until this thought is appreciated and practically enforced, in putting the moral nature in advance, "its lawful place." The Bible should be every child's first reader, that it may learn the sparrow falls not without the knowledge of Him who numbers the hairs of the child's head.

CHAPTER VI.

ON the twenty-second of August, 1827, the student was licensed to practice law in the State of Kentucky. "This formality took place at Harrodsburg, Mercer County, within twelve miles of the place where he was born." Judges Bridges and Hickey, honorable and able men, set him afloat on the rough sea of "lawyer life." And with little knowledge of professional navigation, with such compass and rudder as he had, he steered his little venture into several latitudes in search of a commodious harbor. Green River had some good landings for small vessels; and Hopkinsville, Russellville and Glasgow were prospected, but no sufficient room for his craft, which seemed to have grown in dimensions with the progress of his voyage. Fond of adventure and novelties, while in this region he visited the far-famed "Mammoth Cave," in company with Dr. Bell and a guide. With torches, the descent was made into the first avenue, which, at its end, opened into a vast hall whose top could not be seen, and whose bottom was marked, on one side, by a cart road, upon which the prints of wheels, made in 1807, were plainly visible. And against the huge per-

pendicular rock, which formed the wall, sat an ox-trough in which were relics of the food said to have been fed to oxen twenty years before, while employed in the manufacture of saltpetre, the vats for which were arranged in the opposite side of the hall in full view, but in ruins. Across one of these vats the guide in front passed the trio, and ascending upon a short ladder, upon hands and feet, entered the "Haunted Chamber." And truly, it was dark and rough enough to have been the road to Tophit; but too narrow for that much thronged throughfare. Gradually wider and smoother the way was easier, as the first crime committed cramps and roughs the conscience of the young sinner, but habit makes sin easier and the conscience calmer. Haunted this cavern had been by many living spirits, as their names on the low vault marked by the torch flame testified. Whether demons dwelt or visited there is not known. But the echoes starting sharp and shrill reverberated in thunder tones, and through the impenetrable darkness to unknown depth, and were lost in a whispered wail. A vivid imagination might conceive it the utterance of a departed spirit, and this may have given name to the dark, rough dangerous subterraneous cavern, its length and depth unexplored. Passing by many embryo formations from water and sand falling by the drop, "Devil's Arm Chair" presented, a curious concatenation of the droppings, as though designed for his infernal majesty's rest. But its roughness

plainly showed it could not be pleasant, even to him, according to the world's idea of pleasure.

The devil is not supposed to have the power of ubiquity, and there is no reason to suppose he ever occupied that seat. But all the surroundings are well adapted to impress the mind with the blackness of that darkness and desolation which mark the bottomless pit, into which Rebel Angels were plunged with the force of omnipotence from their native heaven. Dr. Bell had explored this cavern much beyond this point. Leaving the guide and young lawyer to follow, he went forward and suddenly disappeared. Where was he? What had become of him? Had his torch gone out, or had he stepped into some chasm and fallen beyond sight or sound? Excited, not waiting for the guide, the youth rushed on to find himself almost jammed between huge rocks, filling up the way, except a winding pass and space for one man; hastening rather slowly through this tortuous narrow space, suddenly a bright light shone out in front and the shrill cry of "Stop! stop!" broke on his ear. Instantly he was on the threshold of an awful gulf. Starting back to shun the horrible plunge, he saw Dr. Bell standing on the other side of the fearful chasm holding high his torch, which revealed the yawning mouth of the traditional "Lover's Leap." The surprise and apparent danger over, "How was Dr. Bell's position to be reached?" On the right opened this by-way to Hades, and close on its left border continued the

huge rock, along the base of which there was a very narrow path inclined at an angle of several degrees toward the chasm. Along this the young lawyer must go, holding to the rocks by placing the ends of his fingers in the little uneven places upon its surface. He passed and then sounded the depths by throwing in stones, which, like the echoes, sounded deeper and more faint until lost. Tradition says a hopeless lover in company, perhaps, with the loved one and others, reaching this place, in despair leaped into the abyss, a sacrifice to his own vehement passion. From this point the space widened until a vast conical rock in the center of the way was reached. A passway around it revealed its rotund and sloping form. It is not probable that this is the place described by Gallaher in his work entitled "Adam and David," where Lucifer held his grand "council." It seemed more fitted to the gathering of the infernals to their feasts, and, therefore, had the "sobriquet" of the "Devil's Dining Table." And there was homogeneity in this name, and the clear, broad, deep pool of water a short distance beyond, called the "Devil's Frying Pan." These names indicate, in imagination, that devils were not strangers in these parts. The guide stated the party had reached the distance of three miles and a half from the entrance, how far below the surface of the earth was unknown. It was said the Cave had been explored thirteen miles and was supposed to run under "Green River." Youthful curiosity did

not urge a longer walk in such midnight darkness, and though the air was of most exhilarating freshness and no sense of fatigue experienced, neither of the party were familiar with the cavern beyond. Turning back to retrace the path they had trodden, stopping now and then to start the echoes by stamping the earth, to hear the roar as of smothered volcanoes, or calling aloud to imaginary invisible inhabitants to have their words thrown back upon their ears as though in anger or mockery, the entrance was regained. Four hours had been spent in darkness, only relieved by flickering torches which, while they showed the dim way, made the surroundings more gloomy and sepulchral. So that the sunlight, when first seen shining on the margin covered with wild flowers, presented a beauty and glory never before witnessed by the youthful "adventurer." Can not a parallel be found to the incidents crowded into these four hours? In the spiritual lives of many, first impressions of spiritual things are like the torch light in the midst of the soul's native darkness. Earnest thoughts discover great gulfs and fearful caverns into which the soul looks, and fears to fall. But when the light, which radiates from the "Eternal Throne" through the Holy Book, shines upon the soul, a beauty and glory is both seen and felt, sometimes like the sudden blaze of the sun from a darkened sky, or as "St. Paul" says, "A light above the brightness of the sun," so vivid as to suspend his natural sight.

CHAPTER VII.

WITHIN twelve miles of Frankfort, the capital of the State, is the town of Lawrenceburg, then a small village, the county-seat of Anderson County. Here the young lawyer halted on his return, as it was a new county, and that ubiquitous necessary evil, the lawyer, had not yet become a multitude in the place; it was, at least, an apparent vacancy. The buildings in the village did not show any advanced knowledge of architecture, and its contiguity to the Salt River hills, whose population were known by the very characteristic name of "Salt River Tigers," on court-day gave the town a very primitive outlook. That early settler in all new towns, the "whisky shop," had there been located, and the "Tigers," when in town with divers denizens, had much business in and around that "hole to ruin." The member of the great United States Congress from that district lived hard by, plying his vocation of cozening the voters; he met a huge, black-whiskered, Salt-River-hill man, in this rendezvous of the lovers of corn-juice distilled, and, after several large potations, which stimulated their imaginations until each thought himself the "hub of the district," the member experimented on the head of

the Tiger by smashing a large, brown, earthen dish on its top; but when the Tiger was about to crush the larger and smaller bones of the member of the "great Congress," his constituency came to his rescue and saved him for further service to his beloved country. The only regret that the Tiger expressed was that the Congressman had struck him with that inferior metal.

An episode of similar character gave the young lawyer his first case. The point in the case was who struck first, and the young advocate based the defense of his client upon the fact that he had given his antagonist "two black eyes." The victor was the popular favorite, and, as law was rather an abstraction in that locality, prowess was proof in the support of the plea not guilty. Muscle was the medium of escape then; "money now." A court-day without some such pastime was an exception, not the rule, in that rough community. That the young advocate should be singular in this respect was not in keeping with his antecedents or his present associations. Sitting in the bar before the Court opened, a club was suddenly swung over his head with full intent to try the strength of his cranium; seeing it and catching it, with all his force he wrenched it from the hand of his assailant, and, according to well-established custom proceeded to the administration of the law of the place. The assault had been provoked by contemptuous epithets previously thrown at the young assailant, who was really more worthy in

every virtuous aspect than the assailed, who deserved what was intended for him.

Twenty miles off was Lexington, and while the father ministered to his flock, he kept a watchful eye upon his impulsive son. A continued residence at Lawrenceburg, with its associations, was not calculated to improve the young man's morals or manners. The thoughtful father called upon his friend, Hon. W. T. Barry, the distinguished orator and advocate, well known in public life, residing at Lexington, and arranged with him to open an office at Versailles, Woodford County, Ky., which the son should occupy as partner in that county. Thereupon the young lawyer transferred himself to Versailles, and boarded in the family of a Scotch Presbyterian, who, though unmarried, loved his fellow-men for his Savior's sake. This family consisted of an aged sister, also unmarried, and three orphan children of a dead relative. Mr. McFarland was a merchant in affluent circumstances. Here the young man found a paternal roof and lovely home, and the members of this family are embalmed in most sacred memories. General Isaac Shelby, famous as one of the heroes of King's Mountain and the Thames, and Governor of Kentucky, formerly resided near Bristol, East Tennessee (through which the State line of Virginia and Tennessee runs), and removed to Kentucky, near Danville. Rev. Samuel Kelsey Nelson married one of his daughters. Mr. Nelson was brother to the great and widely useful Dr.

David Nelson, who for some years practiced medicine in and around Jonesborough, East Tennessee, where he married Miss Amanda Deadrick, sister of the present Chief-Justice of Tennessee, Hon. J. W. Deadrick. Having embraced Christianity, he carried with him through life a devotion to his Master's cause and work rarely equaled, perhaps never excelled. His ministerial labors left their impress upon every community where bestowed, and his work on the "Cause and Cure of Infidelity" is still speaking to the understanding and heart of the multitude. Upon the death of his brother Samuel, who died in Florida while on a mission of charity, Dr. David Nelson was called to his deceased brother's church at Danville. Rev. Samuel Kelsey Nelson and the young lawyer's father were not only ministers of the same Church, but intimate friends for many years. That there should be affinity between the "Lexington pastor and Dr. David Nelson was natural."

In the summer of 1828 these two clergymen arranged a series of sacramental meetings, one of which was at Versailles. They commenced the meetings with a sermon by Dr. Nelson; at night, an address by Dr. Nelson standing in the front seat, followed by an exhortation from the Lexington minister. The effect was visible. No two men could be more diverse in their modes, and no two more fitted for the joint-work in which they were then engaged. Dr. Nelson calm, earnest, original, argumentative, illustrative; he addressed

the understanding and forced the ascent of the mind. The other, charging the brethren with the magnetism of his voice and manner, drove it into the sinner's heart, extorting the cry, "What must I do to be saved?" Men mature and strong fell under the power of the Spirit through these means. The young lawyer was deeply impressed, mainly from the representation of the "love of God" in the life and death of Jesus the Christ.

If God made man he must love the work of his own hands. The life and death of Jesus must have had an object. Every man's consciousness reveals the fact that he is *out* of harmony with his Maker. The Bible declares that Jesus was anointed to restore this harmony; mere man could not do it. A murderer can not be justified before the law because he is sorry for the act, the penalty is in the way; and in the penalty lies the general guilt. Man's relief must come from his "Maker," if at all. It comes through the life and death of Jesus as man's substitute. God's love alone could have prompted the substitution of such a person for such an object. The substitute must be more than man in his fallen state and by ordinary generation, otherwise his own guilt must exhaust the penalty. The Son of God "was made in the likeness of man," but not as a mere man, else he could not be a substitute. He was the son of man by his mother of blessed memory; but the Son of God by the "Holy Spirit," sinless, yet suffering, beyond the conception of the finite mind,

"because God laid upon him the iniquity of us all." The door of mercy was opened and pardon offered to the "Chief of sinners." This love of God began to be apprehended dimly by the young man.

But notwithstanding his religious education there was a darkness in his mind that could be felt. He had read portions of the Bible and heard it read from his infancy, and had committed to memory all the Shorter Catechism, yet he knew almost nothing about its spiritual meaning. He was anxious. He was told to come to Christ, but how? He was told to believe in Christ. "What must he believe?" That the man Jesus lived in Judea eighteen hundred years ago; "that he was the son of a virgin; that he came to save sinners;" that his life was spotless and pure; that he died on the cross and arose from the grave three days afterwards; and that all that believed would be saved. Christian doctrine, thus formulated, had been taught him by his parents, and he thought he believed; but he was not a Christian. He continued in this state of mind through the meeting. From Versailles they went to Shelbyville, and the young man was taken along. There, as at the former place, the community was stirred and many made profession of religion. Amongst others, Henry Crittenden, Esq., brother of the Hon. John J. Crittenden, of national fame. While at Shelbyville the young man's mental exercises were like these: "Where is God? when I attempt to

pray what conception can I form of him? It is like praying to vacancy." His step-brother, a student of theology, was there and was asked, "What idea of God is in your mind when you pray?" No satisfactory answer was given. "What will be the consequence in a worldly point of view if I join the church? Will it preserve me from conflicts in the world?" Before the close of the meetings the young man determined to join the church without such full and clear apprehension of the nature and responsibility of the act as he should have had; yet he had a desire to be religious and never afterwards entirely lost it. Whether he was then regenerated or not he has never known. Much of his life, for ten years afterwards, tended to prove he was not. His conviction of sin remained with many repentings and feeble efforts to pray, which was not entirely abandoned; yet he committed many gross sins utterly inconsistent with true piety. In short, he professed religion, but had no well defined perception of possessing it. In the progress of these religious meetings several other young men had joined the church. Several of them had expressed a desire to preach. The young lawyer's father hoped his son would give up law and embrace the higher calling of the Christian ministry. Having been at Versailles a very short time, no professional business had accumulated, and being yet under twenty-one years of age and his mind unsettled, at the instance of his friends he entered into an arrangement with four other

young men to study "Theology with a view to the ministry."

There was no theological institution in Kentucky at that day—1828. Dr. Isaac Anderson had such a school at Maryville, Tenn. Upon consultation with friends, these five young men determined to go out to that infant institution. Accordingly, a close carriage was hired and they set out. As they approached the rough country towards the Cumberland River, they recognized a marked difference in the outlook to their native bluegrass region, nor was the contrast less impressive as they climbed the mountains and crossed the narrow valley to Knoxville. Reaching that place, they stopped at the only tavern there, kept by Captain Jackson. Leaving the kind and hospitable entertainment of Captain Jackson's, the party proceeded to Maryville. The end of the journey being reached, the contrast and discontent attained their climax. The material aspect was repugnant to their tastes and habits (sanctified hearts would have taken a spiritual view of things and recognized in that rude school of the prophets the embryo of a mighty spiritual power). These verdant products of the revival had not crossed the "Red Sea" in their escape from Egypt, and longed to return. Upon consultation, it was resolved to return in the carriage that brought them out. Returning they crossed the Cumberland Mountains, at the foot of which they met two clergymen from Tennessee, who prevailed upon the party to remain

at the foot of the mountain that night, which was spent mainly in argument and persuasion to induce the young men to return to Maryville. Two of them were persuaded and agreed to return. The young lawyer was willing to return upon condition that if he did not like the place upon trial he should spend the winter with one of the clergymen. The young men separated, two going to Lexington and three returning to Maryville. The after-life of the young men who refused to return is not known. Two of those returned remained at Maryville and became ministers of the gospel. The young lawyer remained a few weeks.

Rev. Eli N. Sawtelle, who had been educated at Maryville, returned from a Northern tour, and desiring to get a location where he could be useful, was advised by the young lawyer to go to Kentucky. In the meantime, he must fulfill an appointment to preach at Abingdon, Va., and finding the young man dissatisfied, proposed that he should accompany him to Abingdon. This invitation was gladly accepted; and buying a horse, the young lawyer left Maryville and spent the winter in upper East Tennessee, at the luxurious home of the Rev. F. A. Ross, where he continued to read theological books but made no great progress towards the ministry. Here he remained until May, 1829, in which month he married the daughter of a Baltimorean.

CHAPTER VIII.

THUS practically ended the young man's pursuit of the Christian ministry. This was the natural result of an obscure and unsatisfactory religious experience; an unsettled and wavering mind; a weak faith, if faith at all. He had not learned the profound wisdom of St. James' counsel: "If any man lack wisdom, let him ask of God, that giveth to all men liberally and upbraideth not; and it shall be given him. But let him ask in faith, nothing wavering; for he that wavereth is like a wave of the sea driven with the wind and tossed. For let not that man think he shall receive anything of the Lord. A double minded man is unstable in all his ways." If the young man was a Christian at all, it is reasonably certain that this sudden turn toward the ministry was premature, and the scheme of education at Maryville ill advised. His friends thought a separation from the scenes of his past short life (not yet twenty-one) was important to his spiritual development. This was a grave error. It was to send a boy in years ("who had joined the church under his father's eye and before his old associates") away from those influences of home and friends most needful to him in his inexperience to new scenes, new as-

sociates and new influences, without any well-defined information of them. However valuable change of air, water, "scenes" and society may be to the invalid, it is not so as to moral and spiritual culture, growth and health. Home is the nursery of piety; parents should keep their children as nearly under their Christian example and influence after as before maturity. Many young men have been ruined, doubtless, by the desire of parents for their temporal prosperity, by consenting that they should leave home for the city or the Wild West in search of worldly success. Better live in poverty and virtue, waiting for future reward, than in wealth and wickedness. Such riches soon perish, but the wickedness remains, hugging the soul like the iron chain around the body of the remorseful King of Scotland, pressing upon his heart the memory of his deed of blood. The Savior said, "No man, having put his hand to the plow and looking back, is fit for the kingdom of God." This was uttered in answer to the man who said, "Lord, I will follow thee, but let me first go bid them farewell which are at my home." A distinguished commentator upon this passage says, "Such a person has not his mind properly directed toward the Heavenly inheritance, and is not fit to show the way to others." But is it to be, therefore, concluded that such a one has no faith, no grace? The spiritual birth implies infancy in spiritual things and, therefore, a growth unto the measure of the stature of the fullness of Christ. A

child just learned to lisp the name of the parent would not be a good teacher of language. Neither is spiritual childhood fitted to instruct in those high and holy mysteries which strained the mind of an "Edwards" and set ablaze the tongue of a "Whitefield," and into which the angels desire to look.

The case of this young man should be a solemn admonition to every one who may think of entering the gospel ministry. St. Paul says, "How shall they preach except they be sent?" Governments do not send ministers plenipotentiaries to foreign courts without qualifications to do the work intrusted to them. Neither is it to be supposed the King of kings sends ambassadors to his revolted subjects without special adaptation to their mission. St. Paul writes to Timothy, "A bishop (that is, a preacher) must be blameless, (if married), the husband of one wife, vigilant, sober, of good behavior, given to hospitality, apt to teach, not given to wine, not greedy of filthy lucre; but patient, not a brawler, not covetous, one that ruleth well his own house, having his children in subjection with all gravity," "not a novice." He must have a good report of them that are without. These qualities represent a very high degree of sanctification. And though the apostle probably did not intend the preacher should have them all in perfection before he could preach, yet his life as a Christian minister must conform to this model. How solemn and heart-searching must

be the inquiry, "Am I called to preach the gospel?" Lest while I preach to others I may be a "cast-away," and at last hear the startling word, "Depart! I never knew you."

CHAPTER IX.

It has been said the three most important incidents of man's life are: "Birth, because of its circumstantial influences on his earliest thought and conduct;" "Marriage, which involves the greatest responsibilities and incurs the most fearful risks;" "Death, which closes mortal life and leaves the soul only the garniture it has acquired while in the body." "A jeweled spirit" to dwell amongst the stars or fettered for the prison whose bolts and bars are never drawn. Marriage was a divine institution between the unfallen parents of the race. Since the fall, which created the necessity for civil government, it is regarded as a civil contract under the law. Yet its sacred character is recognized not only by the manner of its consummation, but by the enlightened conscience of the world. It was a humane provision not only for the multiplication of the species, but for individual happiness. But happiness is not always the result of marriage. It is only means to an end. And there must be adaptation of the means to this end, as in all other cases. Upon this subject the fancies of the young and inexperienced are not surprising. The notions of fathers and

mothers are quite as jejune, though of a different cast. Emotions excited by the perception of some supposed quality or condition of the object may produce desire to possess. And possession attained, the charm may vanish. Ambitious fathers and scheming mothers traffic in their own flesh and blood for the world's applause or civility. These respectively sow the seed of divorce, which slackens the matrimonial tie in the community, "fosters licentiousness and culminates in polygamy." Mormonism is the harvest the nation is now reaping from this fruitful seed, and the end is not yet. So long as the causes exist the evil will continue in some form. The difference between the marriages of the divorced, generally, and Mormonistic usage is the first conforms to civil law, the other has grown above it. An institution, so beneficent in its design and practical benefits, thus abused and abased, demonstrates the utter depravity of human nature, and the perversion of the best gifts of Providence to the base passions of men. National calamities may easily be traced to the violation of moral law. The licentious love of money and the desecration of the marriage vow are neither temporary or local, but national and continuous. Much was hoped for from the late deceased "President Garfield." If his death, by the hands of a lunatic, should be regarded as "providential," it may be fairly inferred the nation is under the displeasure of the *Ruler* in the affairs of men, who would not interpose to preserve

the life upon which so much seemed to depend. It is often said marriages are made in heaven. In the sense of a special providence over individual life this is true, but the free agency of the parties to the transaction is an element not to be overlooked. Second causes are under the control of infinite wisdom, and are adjusted to the ultimate purposes to be accomplished. One vessel is made to honor, another to dishonor. One marriage is happy, another is miserable. And both in harmony with the divine purpose in the development of the great principles of good and evil, to be fully displayed in the future world.

There is no uniformity in the world's opinion as to the ages of males and females, to qualify them for conjugal life. The law prescribes the limitation of paternal authority and filial submission in civilized societies. It may be that the education of the young of both sexes has a general bearing on the capabilities to be acquired, and exercised in after-life in this interesting relation. But it must be true that few parents understand (or if they understand do not use their knowledge in) training their children for married life, either in accordance with common sense, the dictates of an intelligent affection, or the plain teachings of the Holy Word. The father who chases the dollar through every lane of life, trains his boy to the same pursuit, if possible, upon the idea that money buys happiness. In the diversified pursuits and employments of men, the principle upon

which that father acts is acted upon. Men seek for their sons wealth, fame and power. Women for their daughters ornaments, admiration, ease and pleasure. The attainments are external; they relate to the world, and are limited to the world's capacity and disposition to appreciate them. And this is the shallow conception which the masses of men and women have of happiness. Educated upon such ideas, what qualifications have their children for the sacred duties of wedded life, or those hallowed pleasures which, like a spring running through many branches, keep fresh and green the joys of domestic life. There the pulses of the mind and heart of all beat in harmony with one aim, the happiness of each; and one hope, the salvation of all.

Every parent knows the near approach to certainty that the child will, at some stage of its life, marry; the duties and responsibilities of this relation should be carefully taught so soon as the child is capable of comprehending them. If this be done faithfully, the child will early learn caution in entering into that state. Hasty and incongruous connections will not be common. The principles of the parties will be investigated, habits learned, tempers tested, ages ascertained, worldly circumstances and connections will be considered, family traits of person and character understood, health of body and mind, essential elements of human happiness and homogeneity of spiritual life is indispensable. Who ever knew a happy home where

the wife sought to serve God and her husband to please himself and the world? Similarity in education and social positions are very important to married life. Many cases might be specified in which an inequality in these respects has wrought manifold mischief. In short, parents should teach their children that no young man or maiden is a fit companion for life whose principles, habits, temper, education and social position do not furnish a reasonable assurance that the marriage vow will be sacredly kept, and all its duties performed. By a fiction of civil law, husbands and wives are regarded, in many respects, as one; but their duties and responsibilities are much diversified, and the education should be such that the young man may understand himself to be the head of his family, and the young woman, "that submission to her husband in all things lawful is her duty." That the husband rule in love, and the wife submit with reverence and affection. The family is the base of all government, and as happiness is the object sought, the Creator has wisely ordered this primitive commonwealth to depend upon the faithful discharge of duty, by each member in their several spheres for the attainment of that end. Unhappy marriages are usually the result of parental neglect in the proper education and discipline of children in view of this relation. Without this preparation young people should not marry. The marriage of the young lawyer took place before he was twenty-one years of age. And from

the account already given of his "nonage," his preparation for this new responsibility was not, by any means, complete. The Baltimorean was wealthy, the lawyer's wife a modest girl, so delicate as to weigh less than one hundred pounds, educated by her mother, "a noble woman" (the pupil of Mrs. Isabella Graham), with a vested property of \$10,000, and a prospect of an indefinite addition from her grandfather's estate, then unsettled. With nothing of his own except the license to practice upon his slender stock of law knowledge. If inquiry had been made, as to the motives of this alliance, it would have been difficult to give an intelligent or truthful answer. It is, perhaps, true of him as of many others, that his motives were very much mixed so as not to be fully understood by himself.

Whatever they were, the fact gave color and course to his after life. If he had profited by the experience and observation of twenty years he would have had a solemn counsel of two, himself and young wife, and would have landscaped their present possessions and mapped out their future course of life. But with plenty in hand and more in expectation of this world's wealth, they, with all the junior members of the family of this rich man, planned not how to save their fortune, but to waste it. It is not meant that there was any desire or design to waste; but without practical knowledge of the world and its ways of business, ignorant of the only elements of success, common sense, industry, energy and frugality, their plans

were neither squared nor circled, their enterprise neither practical nor profitable. So that waste was the necessary result. With sixty slaves to wait on them and work on their thousands of acres of land, they ought to have grown rich, but they grew poorer. How many Southern families have a like history? Was slavery at the bottom of it all? Not all. Slavery was an important factor in the sum, but "money, money" was the rock that wrecked their fortunes. Too much money, in the hands of the young, is worse than too little. Give a young man a sum of money which, in his inexperience he imagines will last always, and every valuable energy of body and mind will be paralyzed, and he will probably drift down the current of life into a drunkard's or pauper's grave. Many of those young men who were cotemporaries of the young lawyer's, starting out with brilliant prospects and ample means, have been hurried into personal and social ruin by the very advantages they possessed. While others, obscure, poor and unpatronized, have struggled with want and weariness to ample fortune and national fame.

CHAPTER X.

THE young couple spent the summer, and part of the fall of 1829 in Kentucky, visiting the young lawyer's relatives, and returned to Tennessee in the fall. The Baltimorean was engaged in the manufacture of rope and bagging for the cotton country. Hemp was always in demand at his manufactory. The Kentucky son-in-law had grown up in a hemp country and was supposed to know something of its culture; an experiment was determined upon. Accordingly, in 1830, the young man caused some bottom land to be prepared and sowed in hemp. The crop had the appearance of a forest with all the small trees and bushes taken out, and then the hemp grower discovered he had sown hemp on a sand bank. In 1831 the kind father-in-law said to him, "There is that creek bottom, of sixty acres; clear it and you shall have it." The young lawyer took off his coat and, ax in hand, fell to whacking on a tree about three feet in diameter, and wore himself out, as a wood-chopper, on that tree without getting it down. Finding that he could not clear that sixty acres by his personal powers, he set other hands to it, but the process was too slow for his fast ideas and he gave it up. In 1832 he

returned to Kentucky, intending to buy a farm near Lexington. A little time before a bloody tragedy had been enacted near that place. Excited political conflicts had engendered bitter personal feuds.

Hon. Robert Wickliff, Senator from the County of Fayette (brother of Hon. Charles A. Wickliff), before mentioned, was the subject of a violent attack through the columns of the Kentucky Gazette, perhaps the oldest paper in Kentucky at that time, edited by Benning. Upon the appearance of this article, Charles, son of Robert Wickliff, called upon the editor for the name of the author. Benning refused to give the name, and Charles Wickliff then denounced the editor as responsible in severe terms. The editor raised his rattan to strike, when Wickliff fired his pistol, killing Benning. Great excitement followed. A nephew of the young lawyer's first legal preceptor, and his step-brother, immediately bought out the Gazette, and became its editor. In the first issue of the paper, after the purchase, the death of Benning was commented upon in terms so harsh and defiant, reiterating all that had been said in the former article, that young Charles Wickliff was constrained by the code to challenge the new editor. The editor had choice of weapon and distance, being the challenged party. He was very near-sighted, and upon the acceptance of the challenge chose pistols and the distance eight feet. The parties met on the line of Fayette Scott; the

distance measured, each in his place, at the words, one, two, three, fire! the triggers were pulled, the editor's ball striking Wickliff in the leg while Wickliff's pistol missed fire. Enraged by his wound Wickliff demanded a second fire. It was granted. Preparations carefully made, the parties took their position; at the word "fire" the editor's ball struck Wickliff in the body, which caused him to raise his weapon too high, and the ball passed over the editor's head. Wickliff, in great agony, died on the grounds. This was a sad affair, and the friends of both parties were grieved. The young men had been pupils together in Transylvania University. There was some vamping by one or two sons of distinguished fathers. And to show how nearly the lines of the tragic and comic approach each other; one of these sons sent some sort of call upon the editor, to which he replied, promising the use of a cowhide on the first suitable occasion. The chivalrous son was reported to have hurried to his mother, stating he had killed the editor and wanted two hundred dollars to get beyond the reach of the law. It was said that the mother hastily handed the son the money, who coolly went to the saloon and disbursed the same as fast as it could be absorbed in that much patronized institution. When the young lawyer reached Lexington he found things quiet. Eight feet and a shot that snuffed the candle at that distance was too gingerly for most stomachs.

In the language of the parody upon the speech

of one of Homer's heroes: "I still will keep the way I am in, and slumber in a whole calf skin."

But was this successful, duelist happy? No! no! The blood of a school-mate was on his skirts, though unscathed by law and untouched by human hand. The wail of the dying Wickliff could not be hushed. The blood stain would not be wiped out, even by the deepest plunge into the abyss of drunkenness. His reason reeled, staggered and fell; then to the insane asylum, and then to the grave.

And the immortal spirit, where is it? Is it a mere dream that there is a vast penitentiary of the universe, prepared by infinite benevolence for the confinement and separate habitation of such as are unfit to dwell in heaven or earth?

Reader, are you willing to enter such a place, to keep such company for a day, for a thousand years, forever? Does the company of Graves, the murderer of Cilley, or Burr, the murderer of Hamilton, and the long lists of bloody-handed duelists who have been thrust into that vast receptacle of vain regrets and useless repentance, lessen or aggravate his woe? Misery loves company in this world because human hopes are not all extinguished. Dives begged Abraham to send a messenger to his five brothers whom he had left on earth, to warn them lest they should come into that place of torment. Was this prayer prompted by kindly affection toward his brothers, or the selfish fear that their company would aggravate his

own sufferings? Man is a social being so long as motives to association exist, but the lost soul has a blank eternity before it, and may sit in its solitude, feeding its aimless life on memories of the past which yield no joy, or, with passions inflamed to frenzy, may rush through the dark caverns of that world of woe, seeking but not finding the phantom of its fury. Hell is no place for tears, but direful hate, rage against God and his universe because unfitted for any place in it but hell. It was the duelist standing, in the shadow, over his own grave.

His sable shroud around him bound,
His bloody hand, uplifted high,
And on his breast a large red wound
That fixed the glare of his ghastly eye.

Upon reaching Lexington, it was proposed to the young lawyer to sell to him the Gazette. He agreed to edit the paper temporarily as an experiment, and accordingly took charge of it. Things went smoothly for a time, until pecuniary considerations intervened to induce him to withdraw. Having determined to return to the "Melee" of that institution, commonly ycleped "Court of Justice" (save the mark), arrangements were matured to that end when the dreadful scourge of Asiatic cholera broke out, spreading over Lexington and the adjacent localities, producing universal consternation. When five hundred cases were down at one time in that small city, the young lawyer and wife and two infant children hastened

out of the infected region, and did not look behind until the homestead of his father-in-law was safely reached. His father, the pastor, and his brother, two years younger than himself, then preparing for the Christian ministry, were in the midst of the dying and dead, laboring for the relief of the sick and consolation of the dying; and were providentially protected from the fearful pestilence to its almost total disappearance. Worn down with watching and waiting, this dearly beloved brother, the companion of his boyhood, took a mild form of the epidemic which developed into typhus fever, and before his cowardly brother could reach him he was dead.

How wonderful are the ways of Providence! this noble type of manhood, tall and symmetrical in stature, and in face, carriage and manners the peer of many and admired of all, lovely in his Christian fortitude and consistent in piety, cut down in the bloom of life and promise, while his elder brother, wayward, unsteady, vain and worldly, was spared.

Are the ways of Providence unequal? No! It was mercy to both brothers. The one taken from the evil to come to a higher, holier, happier sphere of usefulness; the other to drink many cups of bitter sorrow, that his proud and obdurate spirit might be broken upon the wheel of that Providence which teaches wisdom by disappointing worldly ambition, loss of dearly loved ones, antagonism of equals, envy of inferiors, tyranny of

superiors, treachery of friends and malice of enemies. The world's forces ordered and overruled by omniscience and omnipotence, to fulfill his purposes of mercy by that discipline, which compels the mind to contrast sin and suffering as its penalty on the one hand, and holiness and peace as its reward on the other. But, though this contrast must be seen by all men of ordinary understanding and reflection, it will not permanently affect the heart, but by divine influence. Therefore, sorrow and affliction, as penalties of evil conduct, do not always produce reformation in the external, much less in the hidden, life.

It may be truthfully said that the afflictions of many have the effect to harden rather than soften the heart. The scriptural accounts of Pharaoh, King of Egypt, his sufferings and fate, illustrate this truth and furnish an unanswerable argument in support of the doctrine, "That the Holy Spirit moves efficiently upon some and not upon others." If a wicked man's life is spared and his afflictions cause him to repent and turn from his wickedness, and he perseveres and seeks deliverance and pardon through the great deliverer, Jesus Christ, we may be assured that God has afflicted him in mercy. On the other hand, if his afflictions do no more than frighten him, and no permanent change of mind or conduct be produced we may safely say, the Holy Spirit leaves him at the end of the trial punished, but not saved. Is there any injustice in this? No. Neither of these men had any right to the divine

favor. Regeneration was a gift in the one case, but not in the other. Has any creature a right to demand why? Suppose I have two sons. I choose to give one a thousand dollars and the other fifty. Who has the right to challenge my act? I have a reason for it, but am I bound to tell even my own family that reason? The infinitely wise and Holy One giveth not account of his secret counsels, and frail and ignorant men had best not arraign him at the bar of stupidity. All suffering which does not produce repentance and reformation is in the nature of punishment, and may be esteemed the beginning of those sorrows which shall reach their climax in the eternal world of misery. But a temporal evil, in whatever form it may come, is a warning, by present experience, to shun never-ending pain. And as the Holy Spirit says to every one who hears the Gospel, "Ask and ye shall receive, seek and ye shall find, knock and it shall be opened unto you," and does not say that A shall be saved and B lost, but "He that cometh unto me I will in no wise cast out," the lost have lost themselves by their own voluntary act, and none will be lost by any affirmative judgment beforehand, compulsory of the will. But is God unjust or unmerciful in dispensing special favor to some and not to others? Let us try this question by the common consent of mankind. Insurrections, rebellions and civil wars have marked their bloody tracks over the nations and continents in the past centuries. When such turbulent outbreaks have been suppressed,

how is justice and mercy dispensed to the rebellious? Before the law all are guilty. Are all punished? Some are to vindicate the law and insure future obedience. The multitude is pardoned. Good governments do not enforce penalties merely that the suffering may terminate on the criminal, but with the benevolent design to preserve order, peace and submission to law for the good of the whole. Are the eternal principles of right and wrong stamped upon the universe with no sanction for their violation? By common consent men may inflict punishment for the violation of the human law. Shall the rightful Sovereign of all men be denied such right? Are his laws less worthy of obedience than those of man, his creature? Foolish and feeble men—many whose want of wisdom is shown in their claim of it—see an infinitesimal grain through a microscopic lens of that universe which embraces all worlds, and all space—shoreless, boundless, infinite—and yet dare to challenge the perfections of Him who is, has been and will be, from everlasting to everlasting, “the same yesterday, to-day and forever.”

CHAPTER XI.

THE currents of human life are like the winding water courses, diverted by obstructions from their wonted channels, running sometimes east, thence to all the other points of the compass, but always following the law of gravitation to their natural level. Even well considered schemes of business or pleasure are often interrupted by unforeseen conditions which make the plan impracticable, but leave the main purpose unaltered. Such was the young lawyer's experience when two hundred miles from his contemplated location as a lawyer. He retained the purpose to practice law without any chosen theater for his enterprise. In his absence in Kentucky two of his brothers-in-law had undertaken to look up and utilize the much scattered interests of their grandfather's estate. One of them became tired of it and proposed to the young lawyer to take his place. Upon the surface this promised large profits, and as there were lands in several States, much travel would be necessary, and the settlement of conflicting claims to them would give him practical knowledge of land law, and familiarize him with that class of litigation material to be known by every lawyer.

Unsettled as to his future, and always ready to yield to any flattering persuasions of pleasure or profit, contrary to the better judgment of his young wife, and taking no proper account of those adventitious influences upon his habits and morals incidental to such an undertaking, he accepted the place. He would fain cover, with a vail, the folly of that act, because it was the door opened by the Devil into sins and sorrows which true wisdom would have foreseen, and common sense, much more the fear of God and the love of Christ, should have avoided. He had been married three years, and with a young wife and two infant children such an employment was utterly inconsistent with his duties and real interests.

For the benefit of young men who may be placed in similar circumstances, it is well to look into the motives which prompted this foolish undertaking. These were various; the ruling motives, however, were love of novelty, covetousness. New sights, scenes and associations fired the imagination and gilded it with a prospect of a harvest of gold—a promise to the hope sadly broken to the sense. The old nursery tale of the bag of gold at the end of the rainbow is not much more absurd than the fancy which excited this hope. The estate had been in the hands of an executor for sixteen years. He was a lawyer, had been a judge and was then a member of Congress; like most other devisees and distributies, some of those of this estate complained that no settlement of his

account had been made by the executor, and that he had neglected the business entrusted to him—to their heavy damage. Thus an other motive was presented to undertake this business—an imagined wrong of which there was no sufficient evidence. Starting out, like Don Quixote, to right all wrongs in the premises, the young adventurer soon found himself in pursuit of the executor aforesaid, whom he did not overtake until he reached that most renowned city of the nation, "Washington." The most renowned, both for brains and the want of them, gathered there every year. The executor was a member of that congregation. (So august when seen through a telescope and so small on close inspection.) That congregation had entered with intense interest upon the consideration of the question "whether the fabric of a poor man's shirt should be made at home or abroad, and the executor coming from a country where shirt fabrics were not a domestic industry, of course must insist that his people should get their shirts from abroad, and must lift up his voice in that behalf. The young "Knight-errant" called upon the executor at his lodgings on Pennsylvania Avenue, and informed the honorable member of his business, who interposed the present pressure of the "Great Question" under discussion, in which he was preparing to take part, after which his business should have attention. After the lapse of a few days his right was recognized. In a full house and gallery, the member arose and said: "Mr. Speaker," then

staggered and fell into the arms of the nearest member, and was dead. Suddenly the piercing cry of the widow was heard ringing above the stunned, awe-stricken crowds in the hall and gallery. The dead member was carried into an ante-chamber, and in great confusion and distress the House adjourned. The name of that member was Thomas T. Bouldin. How utterly contemptible did forensic conflict over such a question appear in the presence of death ; and how solemn the reflection that the account of the executor had been so suddenly transferred beyond the jurisdiction of human tribunals to the great court of "final appeals," where justice and mercy harmonize in every judgment. Thus the first act of the drama ended tragically and cut off every reasonable hope of winding up the business satisfactorily. The situation was embarrassing and made more so by the fact that the young lawyer's expenses, by the delay and otherwise, had so far reduced his ready cash as to require some supplement to take him home. An application to the Hon. Richard M. Johnson, the "Hero of Tippecanoe," the slayer of Tecumseh, furnished him with all he needed, and with much of the wind taken out of the sails of his imagination, he returned from whence he came. What now was to be done ? A suit against the administrator of the executor was not to be thought of in the utter ignorance of those interested in the condition of the estate. There was, however, another executor, who had not qualified

as such; he took the matter in hand, and being a devisee, he made a sweeping settlement, the precise terms of which are not certainly known, and forced the young lawyer and his brother-in-law to accept certain interests, supposed to be in widely scattered lands, all, or nearly so, in dispute, covered by other grants, tax suits and otherwise. Thus the two young men must withdraw from the business or follow a "Jack in the lantern" over an area of a thousand miles. Forbearance forbids comment. The young lawyer should have seen the hand of Divine Providence in the unlooked for death of Judge Bouldin, and the uncontrollable action of the second executor plainly admonishing him that he was not in the line of his duty; but he had purchased an interest in the estate at his first engagement, for which his cash note was outstanding, and not seeing clearly his remedy, "and in hope of realizing something from the scattered lands," and having no other refuge (than absolute inactivity or a return to an attempt at professional life) and his brother-in-law having his all at stake upon the issue, he determined to follow up the phantasmagoria to the end, which was not reached until five years of his most valuable time had been consumed in expensive travel, fruitless searches for land titles in offices where they were in some instances, but were fraudulently concealed. Unprofitable compromises, because of the locality of the properties and expensive suits, within which time two of his children had died in

his absence, giving more direct and solemn warning of his evil course, until with means wasted, heavy heart, in disgust with himself, and the detestable business he had so long followed, he returned from his last search to repent of the past and try to regain some self-respect and some honest business. But there are some compensations in undertakings which do not result in the accomplishment of the initial purpose. Those five years of wandering life had taught the young man several lessons. He discovered his own mind needed careful training to give it unity, persistence of effort; and that his heart needed to be put into a straight jacket to keep it from self-murder; that men are generally intensely selfish; that public officers usually shape their conduct with reference to the guards around the subjects of their actions; that business is generally isolated from the human affections, and not very familiar with common honesty; that popular prejudice is as inexorable as false; that priestly robes do not always cover humble and holy hearts, though blood is said to be thicker than water, yet self-interest dilutes it often to the consistency of vapor; that governments, called the most beneficent, are sometimes "Juggernauts" to grind to powder the hopes and happiness of the individual, worthy or unworthy; and his whole experience confirms the truth embodied in these lessons. In short, from his own experience and observation, he became thoroughly convinced of the total depravity of the race of man, and that true religion

finds no genial soil or favoring climate in the hearts of men. And here the infinite goodness of the "Great God" may be brought home to the soul, in the view of the degeneracy of the race, and that Providence, which takes one-half of the human family out of this sin-cursed world before accountability as moral agents, supervenes.

The question propounded to our Lord by one who heard his wonderful words, "Are there few that be saved," was doubtless prompted by an intelligent apprehension of man's true character. The blessed Teacher did not give a categorical answer, but in a tone of awful warning said, "Strive to enter in at the straight gate, for many I say unto you shall seek to enter in and shall not be able." What proportion of earth's teeming millions, which have come in and gone out in six thousand years, and shall so come and go to the end of time, is represented by that illimitable word "many?" If truthful history interprets that word in its true meaning, have not the masses of the world's adult population, to the present time, fallen under that fearful phrase, "*Shall not be savable?*" In the same connection the Savior evidently referred to that class of persons who nominally profess religion, but of whom he will say, "I never knew you." There is a phase of religious sentiment, prevalent at this day, which makes salvation so free that self-denial scarcely constitutes an element in practical life. Formulated it is the "Let us eat and drink, for to-morrow

we die and go to heaven." Does the mere remission of punishment restore the Divine image? Does the drunkard, the glutton and the debauchee reform because the penalty of his crime is not immediately enforced? An unconditional pardon is a bounty to crime; a compromise between the Church and the world must result in the ruin of both, unless averted by divine interposition. The Apostle Paul wrote to the Ephesians, "By grace ye are saved through faith; and that not of yourselves: it is the gift of God." Thus salvation is so full that no human merit enters into it, but the Scriptures teach that faith works by love, purifies the heart and overcomes the world. Salvation is the result of that grace of faith that apprehends the evil nature of sin, the justice of God in its punishment (in the individual), the mercy of God in the wonderful scheme of man's redemption, in the life, death and resurrection of the Lord Jesus Christ; and reveals to the heart these great facts, so as to produce dread of God's justice on account of personal guilt which extorts the cry, "What shall I do to be saved?" and accepts Christ's work instead of his own. And that grace is the fountain running through faith, which waters and makes fruitful the Christian life, cleansing the heart, "For with the heart man believeth unto righteousness." Thus the Christian becomes a new man spiritually, his character is changed, his reputation depends upon the character of the community in which he lives.

CHAPTER XII.

THE young man's important business enterprise had thus proved a flat failure in its pecuniary results. The follies of his past life nearly approaching life's meridian with a growing family, without a home or any profitable employment. His mind wandered back to the thought of the Christian ministry, but he was not fit to be entrusted with such a sacred office. The law seemed to be his only refuge. In this state of mind he was invited to deliver a "Fourth of July" oration in his neighborhood. Some of the leading men of the county were present, and at the close the speaker was approached by them and told he must be a candidate for the Legislature of the State. With very little acquaintance, and less homogeneity with the manners and habits of the people, and in the face of strong local prejudices, he was flattered into the acceptance of the candidacy, against a farmer and justice of the peace who had a very large family connection, and of the same political party. The July orator was beaten one hundred and three votes, as he ought to have been for his folly in making such a race, and because he was brought out to aid the election of the Congressman and

floater of his party, who were hard pressed in debate, but were elected. Here was another flat failure. Gathering some rudimental law books he betook himself to the study of Blackstone, Buller, Espinasse, etc. He had not practiced law in Tennessee; it was thought needful that he should be regularly licensed. He had been licensed in Kentucky and Virginia. Accordingly, he applied to the Hon. Samuel Powel who, after some conversation, advised him to read more before licensure. This was kindly done and very proper. The bar was an able one, and something more than clap-trap was necessary to success. In due time he was licensed, and within the year had a large share of the practice in his county. At the next canvass for the Legislature, the party convention which had been gotten up to nominate the squire nominated the lawyer he had beaten in the former race, but the lawyer declined the nomination. In this he acted politically foolish, for he doubtless could have been elected; and on the other hand it was providentially overruled, to cut him off from all future chances of following the vicious life of a politician. For though willing to run for the State Senate in after years, he could not get the party nomination. He continued to labor in his profession as a lawyer, and his business soon extended into other counties; but party spirit was rampant, and the hard cider campaign, of 1840, brought out champions on either side, big and little, to hurrah their respective candidates into the presi-

dency of the nation. Of course the lawyer had to do a little of this wind work, particularly because the Harrison elector had taken the wind out of his Van Buren competitor and help was needful. The lawyer's connection with parties had already arrayed the majority of the Whig leaders against him. The defeated candidate for Congress, an able lawyer and worthy man, became hostile to him, and Brownlow's Whig undertook to whip him into good manners, by making charges against him of small rascalities in his native State. These charges were ridiculously false, and no notice was taken of them. The lawyer had done many bad things in Kentucky, but these charges were made by some one who had probably heard some hard things said of this (fellow from Kentucky), and guessed at them as likely to hurt him, in which conceit he was mistaken. If he had been well informed it might have been otherwise. But an incident occurred during the canvass of 1840 which did hurt the lawyer.

Andrew Johnson and the lawyer were together at an appointment of one Spencer Jarnagan, a Whig champion. Jarnagan refused to divide time with the Democrats; thereupon the lawyer and some others arranged to have the old veteran in political rough-and-tumble, John Balch, Esq., to go upon the stand and demand a division of time in the discussion, which excited much sport amongst the Democrats, and was doubtless offensive to the Whig orator. In the meantime the lawyer had

lost respect for and, perhaps, was guilty of some incivility to Mr. Jarnagan. Hard cider, doubtless, with mixture to give it body, had swelled the popular enthusiasm until, like "Noah's Ark," the flood had lifted the log cabin on its surging bosom and floated Tippecanoe and Tyler, too, into the presidential offices. But how soon did the shadow settle upon the glory of that triumph! and how soon did the Whig party reap as it was sown! For the success of the party these candidates were selected, holding diverse opinions upon some debatable questions. This fact and the manner of the canvass were rebuked, first, by the death of General Harrison, and secondly, by the total change of party relation by President Tyler, reaching in its results beyond the presidential election of 1844, in which Polk, Dallas, Texas, and 54, 40, swept the popular heart like a tornado. During the reign of President Tyler (the President is a king, and when a few more shall have been assassinated will be so-called) a vacancy occurred in the office of District Attorney, in one of the districts of Tennessee. During the recess of Congress, President Tyler gave this appointment to the lawyer. In the meantime the said Spencer Jarnagan had been elected to the United States Senate; at the meeting of that body, the President nominated the lawyer as Attorney, aforesaid. Parties in the Senate were very nearly balanced. When the nomination came up, some Senators were absent; and Senator Jarnagan took

occasion to inform that august body that the nominee was very obscure, had no reputation in the higher courts, and withal a Democrat. And though his colleague, Hon. E. H. Foster, voted to confirm, the majority of one defeated the nomination. Thus Jarnagan had his revenge, and the lawyer, "quondam" District Attorney, was relegated to private life.

For several years afterwards the lawyer's experience proved he had just enough reputation, politically, to keep him nearly in front, but never in the lead. His services were in demand to battle for glorious Democracy, but somebody else always wanted and got the offices. Some partial friends desired him to be a candidate for judge of the first Judicial Circuit in opposition to Hon. S. J. W. Lucky (now deceased) before the Legislature, but Hon. David T. Patterson stood in a peculiar relation to the Hon. Andrew Johnson, who manipulated the party. And one of the leaders wrote to the lawyer that Patterson had a cousin in the Legislature who was a Whig, and whose vote would probably elect Patterson, so closely were parties divided in that body. Democracy demanded the sacrifice and the lawyer submitted. Patterson was badly beaten. A legislative election soon came on. The lawyer, still a political projectile, was solicited to run, but a certain Dr. Martin had earnest solicitude to serve the District. It was agreed that a small number of the supposed friends of the parties should settle it; and the lawyer's friends (so-called) either

thought the position of State Senator too low or too high for him. Accordingly he retired indefinitely. Two years afterwards it was thought expedient to bring the lawyer to the front for the same position. Dr. Martin had subsided, but up sprang the embryo Cicero of East Tennessee, Langdon C. Haynes, who wanted the Senatorship as a stepping stone to a contest with the Hon. Andrew Johnson two years after for Congress. When the Whig party thought the two Democrats were fairly in the field, they brought out Major A. Tipton; another sacrifice was demanded for the loved Democracy, and as the lawyer had some knowledge of the political salt sea, having been several times on its coast, and as Haynes had inadvertently let his pistol go off, the ball accidentally going through Brownlow's breeches somewhere above the ankle, producing a little redness on the shin, and as Tennessee, the volunteer State, greatly admired and was ready to heroize any one who had the nerve to hold a pistol steady enough to shoot through a man's breeches below the knee, of course the lawyer must again retire to save the party.

Reader, you doubtless think this lawyer was a very ambitious man; if so, you mistake. It was a quality much below ambition. It was inordinate vanity and credulity, which, in the nature of the case, brought repeated disappointments. The desire for popular praise is wholly different from an aspiration after something good or great.

Vanity, which erects a pyramid of self-esteem upon its own oasis, accepts all flattery as the portrait of its own excellencies; and herein lies the true secret of all real littleness. Daniel Webster was not the idol of the masses; intellectually grand, and morally noble, his eye scanned and his heart cherished the great principles upon which social, political and national happiness must be built. His philanthropy expanded as the canopy over the earth. He earnestly desired and hoped for the rational liberty of all races, and the elevation of mankind to its normal dignity and glory. His range of thought was too high to catch the popular breath. The intellectual head of the Nation, he was the wisest statesman of his time, and if his forecast had been heeded, the social and political earthquake upon the question of slavery might have been prevented. His wisdom suggested that the United States should buy the slaves, and if this suggestion had been adopted, how much better it would have been for all sections of the Union. Southern slaveholders would have been compensated for their property (so-called) and the national debt would have probably been no greater than at the end of the war, and a million of fratricides been prevented. History alone can vindicate the wisdom or condemn the folly of public men and measures. Daniel Webster was not President of the United States, Andrew Johnson was; both are dead, and only live in history. Does not the name of Daniel Webster challenge

the profound respect of all intelligent minds? Contrasts are odious, but sometimes so patent that the eyes must be shut if not seen. It is not out of place to state that there is another character often developed in public men, differing from those mentioned. Such seek not the attainment of great and noble ends for the public weal, nor is mere popular praise the main object. Covetousness, the index of vile selfishness, is the controlling passion of such souls; with consummate cunning and the hypocrisy or impudence of Diabolus himself, they cozen or conquer the masses by flattery or fear, and once in place, the place is made to perpetuate possessions, and though the intelligent and virtuous mind despises such characters, it is yet sadly true the politics of the Nation are mainly in such hands. In free government, parties may be expected and may be useful when great national questions arise upon untried policies, but upon what principle of necessity or utility are parties to be kept alive if the government is in honest hands, and the people are prospering? Why, continue the party strife: plainly to feed the greed of hungry demagogues. In our complex form of government, hitherto untried in the history of nations, questions of novelty and interest were the necessary outgrowth of such an experiment, and Divine Providence, as he has always done in the great vicissitudes of human affairs, raised up instruments to grapple, mould and set in motion and direct the true principles upon which such questions

should be adjusted. Every instrument to its special use: Washington, to lead armies to victory and to be the centre around which the national heart should gather; Jefferson, to pen the "Great Charter of American Liberty;" Hancock, Adams, Franklin and their confreres, to rift the colonies from their mother country, and to formulate the Union of States; Hamilton, to expound the principles of Federal Union on one hand, and Jefferson to assert the limitation of Federal power and the rights of the States on the other. From the distinctive views of the great political leaders sprang the first parties of the Nation, and the question then was: "Are the United States a Nation of States or a Confederation of States?" This question has been the base of national contests upon internal policy from that first political issue. On the one side centralization was feared, on the other anarchy. Under various guises the conflict was kept up until it reached its climax in the rebellion of fifteen States claiming the right of secession from the so-called Confederacy of States, and the sword only could settle it. The verdict was: "The States are a Nation." The question is settled. What remains for parties to fight over? The spoils of office, and the common people must furnish the capital while the demagogues do the trading.

CHAPTER XIII.

WHILE the lawyer was not successful in winning office from the "dear people," he had all the success in his profession his qualifications justified. His political ventures had discovered to himself that "homogeneity of nurture"—habits, tastes and manners with the masses—was needful to political success, and in those several particulars he was sadly at fault. "Black broadcloth and a gold watch were a good cause of challenge to a political aspirant in those palmy days of the Republic." And it would be difficult to prove upon the principles of human nature that such a sentiment (prejudice, if you choose) is in itself wrong. All animate nature in its diversified forms aggregate upon the like rule. "Birds of a feather flock together." And here let me suggest that a conscientious man, if thoughtful, will hesitate to become the representative of the people whose characteristics are not in harmony with his own, because it is scarcely possible for such a man to understand the mind of his people, much less the heart. The lawyer had, upon reflection, reason to be gratified, that he had been so often shelved politically, and sought political preferment before the people no more.

A dark shadow was gathering over the lawyer's

pathway. Politics and professional business had so engrossed his mind he had not made the improvement of his past experience as he should have done. The "Angel of Death" was commissioned to use him from the moral slumber into which he had fallen by contact with the outside world. His eldest child, a daughter of fifteen years, approaching womanhood, lovely in form, but more lovely in "spirit, the jewel in the family heart, her father's pride and hope," fell a victim to pulmonary consumption. A weary, but patient sufferer of five long months, she bore the slow but constant work of the "Destroyer" without a murmur, yielding as it advanced, her mortal frame slowly sinking under its power, but her soul luminous with the light from heaven. The end came, a struggle of some hours, and then a calm for the final farewell. She said to parents, brothers, sisters, meet me in heaven. "Oh heaven! heaven!" were her last words. Her eyes closed, and her spirit left the worn-out body, to be taken to one of the many mansions in her Heavenly Father's home.

Two infant boys had been taken to that happy home. While the father was wildly chasing the ghost of that old "estate," both died within two months during their father's absence. There were now three children left. The triumphant Christian death of the dear daughter had left the father's heart in a state of mingled grief and joy. As a chastisement the discipline was not so fully ap-

preciated as it should have been. The loss of such a child to the parent, however beneficent to the child, should be regarded as punitive to the sinner and severely corrective to the Christian. God, who sees the depth of human depravity and the power of worldly-mindedness, knows when and how to apply remedies according to the necessity of each case, and in this instance saw it necessary to double the affliction of the father by taking away his only remaining son, eleven years old, within two months after his sister's death. This was a crushing blow upon the father's heart. The shock benumbed his sensibilities nearly to the hardness of stone-like stoicism, feeling so intensified as to almost be unconscious of its existence. But such hardness could not continue long. The strain relaxed, the rock broke, and the bitter waters of human sorrow swelled and overflowed.

Bereaved of his four eldest children, leaving a paralytic wife and two infant daughters, and the coincidence of the decease of the two first within two months in the absence of the father, who seemed to be running a race in search of a phantom, and the death of the two last also within two months, while the father was wrangling in courts, or riding over the counties, hunting up some one to say he was qualified for great things, when, in fact, his life was empty and vain, were parts of his experience which could not fail to impress his head and heart; nor has the lapse of more than thirty years effaced the impression of those marked and sad

visitations of Providence to arrest the soul tending to destruction. These four little graves, lying side by side, say to the father, "Remember," and the shadow of a great sorrow passes over his soul, and he turns to God and pleads for pardon for Christ's sake.

How wonderful is the constitution of the human mind, and how beneficently has the Creator arranged its different departments, so that the pressure upon one may be relieved by the action of another. If this were not so, the world's woes would craze the race. The world is on the bottom step of the soul's capacities and susceptibilities; the topmost round of its knowledge, joys and sorrows will never be reached. The soul of man is like a reservoir filled from the unfailing spring of living water and emptied upon the fields of the Lord's husbandry, or like volcanic fires pent up until they burst out in lurid flame in the eternal darkness.

These terrible breaches into his home left their shadow to linger on his heartstone, and to darken his pathway, until time wore off the sharp edges of his grief. The Holy Spirit had lifted the cloud a little, that the father could see dimly the hand which inflicted the "chastisement." He then thought on his way, and sought to turn his feet to the divine testimonies, and desired to keep the Lord's commandments. He could truly say, "I know, O Lord, that thy judgments are right, and that thou in faithfulness hast afflicted me." And

then the father could see a gleam of sunlight through the rifted clouds, when he remembered his dear boy's words, "Father, Jesus Christ knows whether I shall get well."

Four children in heaven! What a blessed relief to the pain of separation! What a blessed hope of clasping them to the heart in the home where death makes no separation! And there is verified to the believer's soul that every cloud, however dark, has a silver lining.

But though man is made to mourn he is made to work also. "In the sweat of thy brow thou shalt eat bread" is the inexorable condition of the race. Political aspirations discarded, professional business must be attended to. Subdued and chastened, the lawyer ceased the habit of traveling on the Sabbath day to courts, and found no loss of business from it. Engaged by a client to attend upon the hearing of a Chancery case, at Fayetteville, Lincoln County, Tenn., the client and solicitor went by steam down the Tennessee River to Whitesburg in Alabama, and thence by Huntsville to Fayetteville. Arrived at their destination and lodging, in an office contiguous to their hotel, awoke about four o'clock in the morning the court should open. The darkness was impenetrable. Suddenly an electric blaze made the night luminous in a moment. Then a heavy fall, as of large stones on the roof, and quick as thought the fearful roar of the mighty tornado. The lawyer sprang from his bed as the door flew open, and the

mighty, rushing, thundering, tearing, crashing tempest swept with resistless force through the town, crushing churches, houses, dwellings, stores, and whirling the heavy materials of such structures (even to the bricks from the walls) from their places, and leaving no trace of them on or near the ground on which they stood.

The lawyer had no more than reached the floor from his bed, when the window next to the street was shattered and driven in, followed by laths, plaster, glass and other fragments, and a furious flood of rain, which drenched his nearly denuded body. The noise and confusion can not be better described than that it vivified the idea of the wreck of matter and crush of worlds. Refuge there was none. A minute or more and the storm king passed, flying higher on its lifted wings, his wrath a little abated.

Feeling thus (for seeing in the thick darkness was impossible), the lawyer moved toward the open door, and finding it attempted to shut it, but the wind was still too strong. His need of help reminded him of his client, who had occupied another bed. He called his name. No answer; again, no answer. "What, is he killed?" He shouted aloud his name. And a voice as though at a great distance, was faintly heard, "Here." "Where are you?" His reply, "Under the bed." "Come out and help shut the door." He crawled out, and with his help the door was closed.

At the dawn of day the piteous cry was heard, "Oh help! help!" and the lawyer and client went forth. They found five persons had been killed, and about sixty others wounded. It was said about one hundred buildings of various kinds had been destroyed or greatly damaged. Many incidents of much interest occurred, showing the directing hand of Providence. Destruction was all around the lodging of the lawyer and client. The wall of an adjoining room was blown down. A large hotel stable close by was carried off, not leaving a sill or other vestige of the material. The end of the hotel was blown in, and not a hair of their heads was lost.

Cyclones of late years have become quite common. Let every one remember that as surely as the Lord was in the cloud that led the children of Israel out of Egypt through the wilderness, and in the storm-capped Sinai, in the midst of its thunderings and quaking, so "He is in every cloud that blackens the sky, and every wind that rocks and rends the forest;" and to his people says: "Be not afraid; it is I."

CHAPTER XIV.

THE lawyer had maintained his membership in church, and was a regular attendant on the services of the sanctuary, and uniformly maintained and ever continued the duty of family worship, morning and evening. When about forty-five years old he was elected and installed an elder in the church.

These visitations of Divine Providence, already stated, the death of four of six children, and the last imminent peril in which he was personally exposed, were calculated to impress his mind with a keen sense of his own unfaithfulness to the "Master whom he professed to serve." If the divine purpose had been to inflict vindictive punishment or death upon him, how could he have escaped in the intense darkness in the midst of flying missiles and falling walls?

As it has been before intimated, there is a difference between that wrath let loose in this world on the hardened sinner, and is only a foretaste of that which is to come, and that chastisement administered to awaken in the renewed soul the almost dormant spirit of true love and service. If salvation depended alone upon man's faithfulness, who could rationally hope to be saved?

But the lawyer, as the sequel proved, had many more years to live and much more to learn and to suffer. His vanity in seeking political preferment had been so often rebuked, and so many of his schemes had ended in disappointment, he began to realize the unsatisfactory nature of all mere worldly pleasures, pursuits or profits. He pursued his profession with a view to supply the wants of his family rather than a desire for notoriety. But he was a man and a citizen, and was not indifferent to current events, as they affected the moral, social and political interest of the country.

The mode of electing Judges of the courts of Tennessee was changed by an amendment of the State Constitution, and in 1834 election for Judges was to be made by the people for the first time in the several circuits and districts. Hon. Seth J. W. Lucky was then Judge of the First Judicial Circuit. Hon. Thomas L. Williams was then, and had been for many years, Chancellor of the First District. Both these eminent men are far beyond the reach of blame or praise, but it is due to each to say, "that no more incorruptible, fair and worthy men ever held a judicial office in Tennessee." Unfortunately they both became candidates for the Chancellorship of the First District, and soon after two others, Hon. Samuel Rodgers and Hon. J. B. Heiskel. All these gentlemen belonged to the same political party—they were all Whigs. Hon. D. T. Patterson, who had been de-

feated by Judge Lucky for the Circuit Judgeship, desired to succeed him in that position ; but some of the lawyer's friends claimed the place for him. To smooth the troubled waters, a letter from headquarters was addressed to the lawyer in the interest of Democracy, urging him to become a candidate for the Chancellorship, and argued though the district was Whig the lawyer could unite the Democrats and surely be elected. This looked plausible, but if successful would have been an election by a minority. This would neither have been satisfactory or right ; besides Judge Williams was esteemed by the lawyer too highly to defeat him by such a course. The proffered Chancellorship was therefore declined. To gratify his friends and to express his own views of the considerations that should control candidates and people, under the mode of electing judges, the lawyer prepared and had published the following address :

“To the people of the First Judicial Circuit of Tennessee: The Constitution of the State adopted in convention, in the year 1834, has been amended, as provided for in that instrument, and the election of judicial officers heretofore made by the Legislature is to be hereafter made by the people themselves. This amendment of the Constitution, and the law necessary to carry it into effect, may be regarded as the beginning of a new era in the history of the judiciary of Tennessee. The principle thus introduced simplifies the mode of election, and brings the candidate for judicial station into

direct responsibility to the true sovereignty of the land. It dispenses with that intermediate agency in those elections which removes the appointment of judicial officers, of the higher grade, a step beyond the direct agency of the popular will. I regard this as a new test presented to the country, by which to try the great Republican doctrine, 'That man is capable of self-government.' And if the people should exhibit the like wisdom and discriminating judgment in the election of men, 'honest, and capable to fill the judicial offices, which they have generally displayed in the choice of their public servants in other departments,' the wisdom and patriotism of the projectors of this new Constitutional regulation will be fully vindicated. I have an abiding confidence that such will be our experience.

"One ground upon which apprehensions have been entertained by some, that this mode of election would not work well in practice, is the fear that the election of judges would be mingled with and controlled by the 'party politics' of the day. In other words, that men will be chosen to fill judicial stations, not because they are more worthy or better qualified than others seeking the position, but because they happen to belong to the dominant political party of the circuit, district or State.

"I am fully informed of the fact that the Democratic party (to which I have belonged before and since I attained the age of twenty-one years, and in whose doctrines and associations I have lived

for twenty-five years) has an undoubted ascendancy in this judicial circuit. But in announcing myself a candidate for the office of Judge of the First Judicial Circuit, as I now do, I declare my sincere conviction that this office has no necessary connection with political organization, and should have none. That in my judgment the purity of the judicial ermine, and the impartial administration of the laws, demand a perpetual separation of the judicial office from the action of political party associations.

“He who shall be intrusted with the arbitrament of life, liberty and property under the law, should know no man by any party name or association, but the claims of every aspirant to judicial honors should rest upon his ‘learning, his probity, his impartiality, and his independence.’ Every candidate for judicial station must submit his claim to these characteristics and qualifications to the ordeal of public judgment. The man who possesses them most eminently, whether he be Whig or Democrat, should be the chosen incumbent of this office.

“In consistency with the opinions here expressed, I shall adopt no system of electioneering for the appointment, which I ask at the hands of my fellow-citizens. I shall attend the courts in the several counties in the circuits yet to be held, which I usually attend before the election, to the end that I may extend my acquaintance with the people. Beyond this I shall make no effort, con-

scientifically believing that the judicial office should not be sought by means usually employed in political and popular elections. And upon whomsoever conferred by popular suffrage, it should be accepted with diffidence, in view of the high responsibilities which it involves.

“I close this short address, and commit the result of the election to my fellow-citizens, with the assurance that if I am regarded as well qualified for this office, and shall be appointed to it by the people, I promise that the best powers, moral and intellectual, which I possess shall be employed in the discharge of its duties. If the choice shall fall upon some more worthy citizen, I shall be content. February 23, 1854.”

This circular letter did not strike the key-note to which the Democratic tune had been set, so that the music went on, but the lawyer's voice was not heard, even in the base. That first election, under that constitutional amendment, has been followed up to this day, demonstrating that no office is too sacred to be prostituted for the purposes of political factions. The lawyer hoped that it would be otherwise, not so much for his personal advantage as the good of the country.

Some of the interests of mankind can not be safely intrusted to the masses of the population of any country. Men may talk about the dignity of human nature, and spin pretty theories of the doctrine of “equal rights” and privileges, so much asserted, and so little respected or practiced.

But it is not true that all men have equal rights and liberties, in the popular sense of the phrase. Rights in the abstract and rights in the concrete are often widely different. Rights are largely accidental. Both physical and mental capacity and culture, with many other incidents, make distinctions among men of the world (and of the same country as well), upon which rights arise that others have not. It is true every man has natural rights according to his capacities and opportunities, but they are so diversified as to make real differences amongst men, which are recognized in all communities, and should have their influence upon all subjects which require mental and moral culture to their proper adjustment for the benefit of all classes. To illustrate by a homely example: Here is a man with a crushed limb; amputation is necessary to save the man's life. Here is a butcher, and there is a skillful surgeon. Which should perform this very delicate operation? Do you say that the butcher would have the right if the wounded man should be willing? No; because it is a duty to preserve human life and relieve human suffering, and the best available means are to be employed. Civilized communities are subject to laws which are intended to apply to every material and social interest of the individual. These laws are often changed by amendment or repealed, sometimes very inartificially framed. But such as they are, they make what is called a system, so varied and often

so intricate as to require the most experienced and well-trained legal mind to apply them properly. Indeed, at this day there is such obscurity in the relations of the law and actual cases that a distinguished lawyer recently said: "Throw a sheep into the court of final resort, you can not tell whether it will come out a bed blanket or a wool hat."

It will not be denied that the best moral character, and the most cultivated and legal talent, are required in that most sacred official station, in which not only the property and rights of the citizen, but his liberty and life itself are often at stake. How are such qualifications to be secured? By the suffrage of the man that can neither read nor write his own name, but can drink a quart of whisky "per diem," blaspheme his Maker, and neither knows or regards law or religion; or that other class, though temperate, yet from ignorance follow the lead of the demagogue, who happens to win them by flattery or favor; or those buccaneers, whose business it is to buy votes for the man who employs and pays them?

The philosophy of human government is so little understood by large masses of population, they can not discriminate between the fit and the unfit in the least responsible office, and as the consequence such offices are often filled with bad men. Detocqueville said many years ago, "The best men were not in public offices in America."

Nor are they now. The worst feature of universal suffrage is its constant tendency to demoralization, and all past history of the race proves that strictly popular government can not stand upon any other foot than popular virtue. A demoralized people must become anarchical, and this anarchy will ultimately bring to the top the brain and wealth, which had been hiding out as from a tempest, and by their inherent forces combined crush the multitude to slavish subjection.

Despotisms are begotten of licentious liberty. Our Government was not intended to be a despotism or a democracy, but a constitutional republic. Whatever, therefore, is appropriate to the preservation of this conservative system should be recognized as right. Do you employ a carpenter to shoe your horse, or a blacksmith to build your house? All agencies suppose the capacity of the agent to do the business intrusted to him in a proper manner. If the employer has no capacity to judge of such qualifications, he can make no prudent choice in matters which involve so many and important rights and interests as judicial office. The "conservative principle, the rock of national safety," should exclude from the exercise of suffrage all who can not choose an incumbent of judicial office intelligently.

CHAPTER XV.

AN incident of the lawyer's connection with the old estate, before mentioned, was the sale of a body of land lying in one of the States, for a certain sum in hand, and a further sum upon the procurement of a clear title to the land. Ten thousand dollars were supposed to be at stake. The lawyer determined to make another effort to close up this contract. To accomplish this object it was thought best to ascertain at the General Land Office, at Washington, D. C., what would be required by that office to authorize the issuance of a patent for the land. He went to Washington, and spent several days in correspondence with that office, and obtained special instructions as to the papers which must be procured. These instructions made it necessary to go to the district where the land lay. To the Land Office there he went, and as he supposed obtained copies of all needful papers. Returning to Washington, these papers were presented to the Commissioner of the General Land Office. After some days' delay, the lawyer was informed it would be necessary to get certain other papers at the capitol of another State. He repaired thither, obtained the papers, returned to Washington, and laid the same before

the Commissioners. After further delay he was told it would be necessary to return to the District Land Office, file the papers, and get a plat and survey from that office. The lawyer resumed his long peregrination, reached the District Land Office, had the papers filed, and plat and survey made. Now, of course, the patent must come. But a question was then made, whether some of the entries in the survey had not been withdrawn, and thus left the survey unsupported as to several hundred acres of the land. The Commissioner thought it needful that new warrants be obtained and filed to supply this possible defect. This would require the outlay of several hundred dollars. The lawyer had left home with \$150, and had procured \$200 more on the way. But he had been traveling and living at hotels for two months or more, and was short of cash required to buy the new warrants. In this emergency a former Senator in Congress introduced the lawyer to a money-lender in Washington, from whom he obtained the sum of \$600. He was able to pay for the warrants if they could be procured. Did any one ever hear of a case when capital, great or small, sought an investment and could not find it? The lawyer found a man who could procure the warrants, but he must go to the capitol of another State to get them. He went, and after a great deal of searching and sifting found them and purchased them. Back again to Washington the lawyer sped, and sat down in his hotel to await

the receipt of the patent. Presently, a paper was handed to him. Upon opening it, instead of the patent was a notice that a caveat had been sent to that office of the Commissioner, averring the very defects in the survey which the lawyer had been at so much labor and expense to cure under the direction of the Commissioner, and the Commissioner declined to issue the patent. The lawyer could not conceal his indignation and contempt, and expressed himself in terms which he regretted when the paroxysm passed.

It was grossly unjust to refuse the patent without requiring the caveator to furnish the evidence to support his caveat, instead of throwing that additional labor and expense on the lawyer. But the caveator was a land pirate, and the lawyer became satisfied he had fallen into bad company, and left Washington in disgust. He was more confirmed in his conviction soon after his return upon the receipt of a letter from the money-lender, demanding a sum nearly double the amount borrowed. The lawyer paid him his debt with fair interest through the Hon. A. V. Brown, and there the matter rested. Thus, the lawyer spent about \$1,000 in trying to get a title to land that was clearly his in equity, under the direction of officers of the Government, and was finally refused the title. This was law administered by a limb of this "great, free, enlightened Republican Government."

This case is not paraded in the expectation of

securing sympathy. It is the public who are most interested to know how public trusts are administered. Bad laws, if honestly administered, are better than good laws abused by perversion and maladministration. If private and individual rights are disregarded by those in power, it is morally certain that the public welfare will be in imminent peril. Is not such official obliquity the legitimate result of that popular demoralization which springs from licentious liberty, reflected through the officeholder? It is certainly anomalous to expect a pure head to a badly diseased body politic. The representative is the type of his constituency.

On another occasion the lawyer was in the political "Hub of the nation," and fully equipped with the needful documents to collect a small sum of money due the estate of a dead soldier. The lawyer repaired to headquarters of a certain Auditor, who referred him to an officer of an inferior grade, and he to another of still lower dignity. After passing through these various laboratories of red tape, he found the bottom authority in the premises. Presenting the papers, the official glanced over them, and turning from his desk coolly remarked, "The papers are not regular." "What is the defect?" said the lawyer. The man began some sort of criticism. As the lawyer looked him full in the face the man stopped and said, "What is your name?" The lawyer stated it. "What are you?" "All right, you shall have the money," and it was paid. If the papers were not regular,

the money should not have been paid; if they were regular, the objection should not have been made. Official station does not change a man's character. Whatever vice or weakness may be in him will be developed in his official conduct whenever a proper occasion or opportunity occurs. "Prosperity in any form is hard to bear." Weak minds are often ruined by it, and strong minds are apt to exhibit whatever ugliness they may have succeeded in concealing theretofore.

The incidents stated in this chapter occurred before the late civil war, and in view of the "spots in official life, which discolor the history of the nation during and since that war, they are very diminutive in importance." They were like little electric flashes as the Storm King peers over the low and distant horizon, slowly bringing up the winds and waters of a mighty tempest. There is little doubt that political leaders looked to a dissolution of the union of the States long before the rebellion had taken definite form in any State; and, doubtless, many office-holders, like the "wreckers" of a sinking ship, made the most of their opportunities. The contagion of such a sentiment would necessarily spread from the head of the official through the bodies of subordinates, and the sequel "proved corruption undisguised and flagrant."

CHAPTER XVI.

THERE is a sickly sentiment prevailing more or less extensively, that the greatest rebellion in the history of nations was the result of honest differences of opinion upon several subjects affecting private rights and national authority. That there were some Southern men who thought revolution the only remedy for evils which they really believed to be already, or about to be, inflicted upon the Southern States may be admitted, but they were neither the majority nor the chief leaders in the movement. The Rebellion was the natural product of that pride and lust of power born of slavery and cradled with the infancy of Southern aristocracy. Republicanism and slavery are elementary and practical antipodes. The son of a Southern planter was necessarily an autocrat; and the daughter, a princess born to command. Obedience was its correlative in the slave and the poor, as well. Pampered by the power of its staple products in the commercial world, which brought the nutriment to pride and luxury; natural temperament quickened by contiguity to the tropics; ignorance and dependence of the masses of the poor—liberty was a name; servitude the fact. Political

leaders with the mother's milk imbibed the fancy of individual importance and Southern superiority. This imagination was carried into the political lives of such leaders, and was carried into Southern legislation and diplomacy. It was this spirit which forced the Constitutional Convention in 1787 to allow Southern property to be represented in the National Councils, which had no support in reason or equity, but stood alone upon assumption of right because the Southern slaveholder claimed to represent man and woman who were, under the municipal law, his property. If they were property, then they stood upon the footing with cattle and other chattels. In that convention, South Carolina and Georgia evinced that spirit of dictation which characterized their subsequent history, as leading in the crusade upon human rights, by the bold declaration, "That slavery should continue or no federal union would be formed." In the debate upon slavery in that convention, Luther Martin, of Maryland, said: "Slavery is inconsistent with the principles of the revolution and dishonorable to the American character to have such a feature in the Constitution." Rutledge, of South Carolina, said: "Religion and humanity have nothing to do with this question. Interest alone is the governing principle with nations." This last utterance was the key to Southern politics; pride, luxury and vanity on the one hand, and pecuniary interest on the other—the money value of the slave, estimated not only by the cash

value of slave labor, but more by the exemption of the master from honest toil and the indulgence afforded to indolence and ease. It may be doubted whether South Carolina and Georgia entered the Union under the Constitution without mental reservation. One of their most distinguished delegates to the convention said to his people on his return: "Slavery has achieved great advantages by the terms of the Union." And this vantage ground was maintained, and the open aggressions of this power marked the history of the nation to the time of its overthrow. Having passed through a seven years' war and just emerged from its fire and blood, surrounded by territory occupied by savages or claimed by "crowned heads," these two States, impelled by necessity common to all, urged the colonists to unite in a more permanent union, yet must conserve slavery or form no union. The fact that these States would have slavery recognized in the Constitution, in direct conflict with the fundamental principles upon which the Government was to be founded, clearly reveals their silent thought that the union would be temporary, for sensible men could not be persuaded that a compact made upon a compromise of principles so directly repugnant could long endure; therefore the slave power sought, in various ways, to manipulate the territories and shape the policies of the Union to the extension of its influence and the perpetuation of its existence; doubtless determined if it could not control the Union, it would withdraw peaceably,

if it could; "forcibly, if it must." The *Federalist*, in its edition of 1802, after referring to the great utility of the union, said: "But the fact is, that we have it already whispered in private circles that the thirteen States are of too great extent for any general system, and that we must, of necessity, resort to separate confederacy of distinct portions of the whole. This doctrine will in all probability be gradually propagated, until it has votaries enough to countenance its open avowal." A prophecy fulfilled in 1861 in a most tangible form.

It is probably the general truth that some Southern politicians at and after the adoption of the Federal Constitution looked to the disruption of the Union as a desirable event, whenever the same could be accomplished with safety to Southern institutions. To do this and to people Southern territory, and extend the area of their favored system, was a prime object. The cession of territory by North Carolina and Georgia to the United States, with the condition as to slavery; the purchase of Louisiana and Florida, and last, yet very important, the annexation of Texas, rapidly matured Southern policy. The discussions upon the tariff and internal improvements in the light of recent history should be regarded, perhaps, as a "sop to Cerberus" to cover the main design, which probably was to throw off the Northern and Northwestern States, annex Mexico, and push the slave conquest to Cape Horn. Thus, in the language of a member of the Confederate Congress to the

lawyer in 1863: "Build a great golden government homogeneous in interests and policy, whose power and glory would eclipse all other nations." This was, doubtless, the ideal of Southern ambition, and all those differences of opinion touching private rights and national authority were only used as fuel to the flame, which broke out in such fiery conflict in the rebellion. Notwithstanding the teachings of the lawyer's first legal preceptor, who was a Federalist in theory—"A government by the people, and for the people; with liberty and equality within the law," was to the lawyer's mind captivating; and without discriminating between a Democratic confederation on the one hand, and a constitutional republic on the other, he allied himself with the Democratic Party, as it claimed to be the people's party. The coldness of that party towards him personally, nor the smaller errors into which it fell from time to time, did not unsettle his judgment as to its general policy as a national party. He had been educated to love the Union, the work of the fathers; to venerate their names much after the manner of the Israelites towards their great leader and law-giver, Moses, the greatest man in history. The possibility of dissolving the Union did not enter his mind. By common consent, it seemed to be the best government in the world, and in his unsophisticated simplicity he supposed men too good to do what would be so bad. A slaveholder himself, as his father had been before him, familiar

with the institution in its milder forms, and knowing that many slave owners were not satisfied with the Christian morality of the system and held such property only under an habitual protest, he could not believe the whole people of any State would be induced to fight for the preservation and perpetuation of an institution so repugnant to American ideas of liberty, and which, by its increase of members, must wear out, however some particular localities might struggle to keep it alive. Of one thing he felt assured, that the free States, having recognized the slaveholders' right to hold such property, would not attempt to deprive them of it without a fair compensation. Feeling no serious apprehension of danger from this source, the lawyer continued to practice and took little or no interest in the political contest going on between the years of 1855 and 1860. The national administration was Democratic; the offices were generally in the hands of the Democrats; Democratic policy was in the ascendency, and he could see nothing in the political outlook to give Democracy, as such, any serious alarm. Abraham Lincoln had been nominated by what was called the "Black Republican Party," but Douglas had beaten him on his own soil in Illinois. John Bell was nominated by the Whig Party, and nothing could defeat the Democratic Party but dissension in the party.

The question who should lead the "Democratic hosts to victory" at first seemed the only one. Douglas, of Illinois, could undoubtedly be elect-

ed. A conservative Democrat, of ability inferior to none and of the highest national reputation, his nomination by the Democratic Convention could scarcely be doubted by those who were not informed of the secret purpose of Southern slaveholders; these had been "wide awake" watching their opportunity. It had come. President Buchanan was a "weak, old man;" Floyd, his Secretary of War, Southern to the zenith and corrupt as Judas Iscariot; Thompson, of Mississippi, and Cobb, of Georgia, in the Interior and Treasury Departments; and Jerry Black, Attorney-General. The Secretary of State, General Lewis Cass, was the only loyal man in the Cabinet; and when Buchanan, under the influence of traitorous Secretaries, refused to reinforce Fort Sumter, General Cass indignantly rebuked the action of the Cabinet by resigning his position, no more willing to sanction treason in this instance than when he broke his sword rather than resign it upon the traitorous surrender of Hull. The future historian, if truthful, will give this President and his counselors their proper place in that dark and bloody page of the nation's history.

The lawyer did not begin to realize the danger until the disruption of the Democratic Convention. This fact presented a case for thought and inquiry, "What was the objection to Douglas?" It could be nothing else than his conservative views of slavery and its rights under the Constitution. The "Dred Scott Decision" of the Supreme Court of

the United States had affirmed and settled the right of the slaveholder to take his property into any Territory of the United States. The only open question then was, "Shall the people of the Territory, when organizing a State government, provide in their constitution for the existence of slavery as a domestic institution within such State, or exclude it as the people may choose? and shall Congress admit such State into the Union, with or without slavery, as its constitution may provide?" There could be but one side to this question. No sane man would deny the right of the people of the Territory to frame their constitution either way. The only inquiry Congress could properly make would have been to the number of inhabitants and the republican form of the proposed government. Again, who were the "bolters" from the convention? Southern slaveholders and their sympathizers as to slavery. What, then, does it all mean? Dissolution of the Union; a divided Democracy could not succeed. When Breckinridge was nominated by his slaveholding convention, as Douglas was by the conservative Democrats, the purpose was palpable. Breckinridge and his convention knew he could not be elected; nor Douglas, nor Bell. To divide the Democracy was to secure the election of Abraham Lincoln. And it is now evident that it was intended by the slaveholders to furnish a ground upon which to rouse the passions of the masses and fire the Southern heart. The contest was to be manifest-

ly between Lincoln, Breckinridge and Douglas. Bell weakened. Breckinridge and Bell, both being Southern men, left no substantial support for Judge Douglas in the South. That Bell was brought out through the intrigues of the slaveholders to make Lincoln's election sure will not be averred. But it is certain that that was its effect, and it is also certain that Bell's Southern supporters generally went into the rebellion. The Presidential candidates all in the field, the canvass opened. Yancey and others traversed the South ostensibly in the support of Breckinridge, but, really, by fierce, fiery harangues to prepare the people for revolt. The lawyer was at one of Yancey's appointments, but his purpose was so palpably traitorous that the lawyer could not listen and left in utter disgust. From that time his mind was fixed. Breckinridge was a native of Kentucky, and was raised upon the same "blue-grass soil" as the lawyer. His personal preferences would have been for him, but the "odor of treason" was all around his nomination. As a Democrat, Douglas must be his choice. The lawyer wrote out and published the following paper:

"To the Democracy of Tennessee: Those who support the candidates of the bolters from the National Conventions at Charleston and Baltimore are sincerely and earnestly asked to consider the subjects presented in the inquiries which are here propounded. Assuming that the National Demo-

cratic Party stood united and harmonious upon the Cincinnati platform of 1856, I ask:

"1. What Mr. Breckinridge understands to be the difference in the platform of 1856, unanimously adopted at Cincinnati, and the "Bolters" platform adopted at Charleston, upon which Mr. Breckinridge now stands as a candidate for the Presidency?

"2. Does the "Bolters" platform affirm or deny the doctrine of intervention or non-intervention?

"3. If it affirms the doctrine of intervention, then how does it agree with the Cincinnati platform of 1856, which declares most positively the doctrine of non-intervention?

"4. If it asserts the doctrine of non-intervention, then in what particular does Mr. Breckinridge differ from Mr. Douglas upon the question?

"5. If Mr. Breckinridge is for intervention, when and how does he propose to apply it to slavery in the Territories?

"6. If Congress may intervene to protect slavery in the Territories, must it not have the 'correlative right to exclude' slavery from the Territories?

"7. If Congress were to pass an act directly to protect slavery in a Territory, would such act be subject to revision and constitutional interpretation by the Supreme Court of the United States?

"8. If the Supreme Court of the United States may review the action of Congress and settle the question of protection to slavery under it, may not the Supreme Court do the same thing under

an act of the Territorial Legislature, unfriendly to slavery?

"9. If the rights of the slaveholder in a Territory can and must be settled by the judicial authorities upon any breach of their rights by territorial legislation, what is the use of Congressional intervention?

"10. Is not all legislation by Congress upon the subject of slavery in the Territories directly prohibited in the 'Dred Scott Decision?' If so, shall that judgment be evaded by the specious terms of an enactment which declares protection to all property?

"11. If the people elect delegates to a National Convention to nominate candidates for President and Vice-President, and that convention organizes according to the forms of deliberative assemblies and the usages of the party, and a minority (for any cause) choose to secede, where do such seceders get the authority to organize themselves into a convention, nominate candidates for President and Vice-President, and declare themselves the National Democratic Party?

"12. Which will be the regular convention, that from which the seceders have bolted or the "Bolters"—the first retaining 212 votes, the last counting only 105?

"13. If one delegate withdraw from such convention, is not his commission extinct? If an hundred withdraw, what is the difference if a quorum is left?

"14. Is not the 'Southern League' or 'Golden Circle' a 'disunion' organization?"

"15. Are not the principal instruments and movers in the secession from the National Democratic Convention members of the 'League'?"

"16. Was not the union of the National Democratic Party the bond of the union of the States?"

"17. Is not secession revolution? (Secession from the convention is secession from the party.) To break up the party is to break this bond of the union of the States. Is not this revolution?"

"18. If this 'Southern League' and disunion party, headed by William L. Yancey, of Alabama, has been able to draw off from the National Democracy of the Cotton States upon the abstract question of Congressional protection to slavery in the Territories, then, knowing the sentiment in the North and West upon this question, and the absolute power to control the action of Congress by these, must not these seceders and bolters have already taken the initiative to dissolution of the union of the States by their bolt at Charleston, to be fully consummated if Abraham Lincoln should be elected President in this canvass?"

"19. If Mr. Breckinridge is the candidate of the seceders and bolters, is he not in principle a seceder and bolter from the National Democratic Party?"

"20. If to dissolve the Democratic Party (the union of which was the bond of the union of the States) be revolutionary, then is not Mr. Breckinridge a 'revolutionary candidate'?"

"21. If this party is sectional—staking the union upon a question of merely local interest—then is he not a sectional candidate?

"22. If disunion be a foregone conclusion with those who control his party, is he not a disunion candidate?

"23. If these things are so, ought he to be elected President of the United States in November next? I speak as unto wise men. Judge ye."

A NATIONAL DEMOCRAT.

Satisfied that Breckinridge had become the synonym of division, the lawyer thought it the duty of every loyal man to throw himself abreast of this traitorous tide. He immediately opened correspondence with prominent men upon the subject of an electoral ticket for Douglas in Tennessee. The following letter is from a lawyer, a former member of Congress, and an able stump speaker.

JULY 14, 1860.

DEAR SIR:

Your favor of the 13th has just been received. I give you the right hand of fellowship. Truly I am a Douglas man, not because he is an original, consistent, pure Democrat, but because he is all that, and more than that. He is a true patriot, a broad national Democrat, knowing no North nor South. He is the greatest man left in the Senate, and I believe the greatest in the union. He has been more unjustly treated by the leaders of the southern wing of Democracy than any other man.

There is an attempt to hoodwink the Democrats of Tennessee by closing every paper as to his claims, and not suffer the people to know the truth. Douglas is the regular nominee of the regular Democratic party. His ticket is national. Breckinridge is the ticket of the seceders from the regular convention. It is the seceding ticket from the union, and nobody pretends that he can be elected. All he can do is to secure the election of Lincoln, and this is the purpose and end of all their doings. They desire to see Lincoln elected, and they think the South will declare for disunion in a body. This is the whole project, and a more infernal one was never set on foot. I am sorry to say that ———, who professed to think Douglas a great and good man, has gone with Patterson, Milligan and Johnson (*et id omne genus*). I am very much ashamed of him, but I have never said a word to him about it. If we can organize a ticket, and have a canvass, and get a few Douglas documents before the people, we can carry the State. I am willing to do anything I can, but the ticket ought, if possible, to be composed of original Democrats. Our friend, Col. C——, has an opportunity to make himself a great man. Last time I talked with him he was for Douglas. James Britton, Sr., is a Douglas man, and would make a good elector. I think John McLin, Esq., of Jonesborough, would make a good elector, and many others. I am almost too old to canvass the whole State, or even the district. But neither

ticket shall go unfilled for the want of my name. The 28th will be on Saturday of the first week of the court at ———. I expect court will be there two weeks. Write to the Democrats and stir them up; that is all they want. Also write to some of the executive committee; tell them to send documents, or let us know where they are to be got, and we will furnish names. I am for putting the Democrats in the lead and backing them with all my strength.

In much haste, I am you obedient servant.

It is here seen where Andrew Johnson, Esq., late President, "Judge Sam'l" Milligan, Judge of the Supreme Court of Tennessee, and subsequently appointed by Johnson to a seat in the Court of Claims, and David T. Patterson, then Judge of the First Judicial Circuit in Tennessee, son-in-law of Andrew Johnson, and afterwards Senator in Congress when Johnson was President, all stood in the presidential election in 1860. How they were metamorphosed into such prominent Republicans and got so well paid for it is not stated. When the war was over Johnson's Democracy had revived and become so invigorated that Republicans were made to wonder with a great astonishment at the agility displayed in jumping upon the foremost horse after Breckinridge's defeat, claiming to have been riding the foremost horse all the time, and when a new race was to be run, and a new stake to be put up, they dismounted and mounted a pony of their own. It was deter-

mined to have a convention at Nashville with a view to organize an electoral ticket in the State for Douglas. The lawyer went to Nashville and did what he could in aid of the movement. At his instance, James Britton, Jr., was appointed elector for the first district, and the whole ticket filled up by the convention. A Douglas paper was started at Nashville. It was a forlorn hope, but a resolute purpose by loyal men to resist treason, and the Douglas paper uttered no uncertain sound. For some reason James Britton, Jr., declined to accept the electorship of the first district. The central committee immediately wrote to the lawyer that he must take his place, which he promptly did. Hon. James W. Deadick, the present Chief Justice of the Supreme Court of Tennessee, was the Bell elector; Hon. Albert G. Watkins, former member of the House (now a Methodist minister), was the Breckinridge elector.

The Bell platform was "the union, the Constitution and the enforcement of laws." The Breckinridge platform, intervention by Congress, to protect slavery in the territories. The Douglas platform, that Congress should not intervene to protect or exclude slavery from the territories, but to leave the slave question to be settled by the people of the territories upon the formation of a State government. If the slave States could people the territories so as to give the "slaveholders" a numerical majority so as to secure a constitution favorable to their system, they could do so; if not,

they had no right to complain. The rule of majorities in Republican government should not be disturbed.

It is not believed that either "Deadrick" or Watkins saw through the slaveholders' plot, though from the force of surroundings they both became identified with the Rebellion. Though John Bell received the electoral votes of both Tennessee and Kentucky (beating Breckinridge in his own State), his subsequent conduct had much to do with the future relation of his supporters to the union. The supporters of Bell generally in those two States were rebels, or neutral Tennessee could not have been forced into the Southern Confederacy without the complicity of Bell and his counselors. The masses of that party were loyal; but in Tennessee, as in any other State which went into the Rebellion, the leading politicians in whom the common people confided took advantage of that confidence, and by false representations of the acts and designs of the Republican party, led the people to believe their rights had been and were to be invaded, and thus roused the spirit of resistance to an imaginary evil. Thus many who were really interested that slavery should be abolished (because that labor was in direct conflict with their own), by the selfish demagogism of such politicians, were made to fight against their own interests, while many others who had lived all their lives under the shadow of the negro quarters, and had been treated by the lords little better than their slaves,

from the force of habit, and an ingrained sense of dependence, followed the bidding of the master without regard to the right or wrong of their conduct. It was remarkable that amongst the common soldiers in the rebel service there was almost a total absence of expressed opinion as to the right or wrong of the Rebellion. The sentiment most frequently heard was, "We live in the South and must go with our section or State." Nothing impressed the lawyer mind as to the insecurity of popular government more than the facility with which demagogues led many of the people into the Rebellion. Perhaps three-fourths of the rank and file of the rebel armies had scarcely a thought of the nature of the conflict beyond that they belonged to Dixie, while their enemies were from the North,—such is unreasoning man—under the influence of ignorance, prejudice and passion.

The election of Mr. Lincoln, which was the purpose of the Southern Democracy in breaking up the Democratic party, made war inevitable. Compromise was simply impossible. The fatal step had been taken. In the first compromise, which recognized slavery in 1787 by the Constitution, the Missouri compromise, and that of 1850 had twice averted civil war, but now the United States must become the propagandist of slavery, or yield to the dissolution of the union, or fight.

CHAPTER XVII.

THE belief of the natural inferiority of the colored race, not merely the African, but all black people, had been taught in the colonies before the Revolutionary war of 1776. The belief rested on the accidental condition of the colored population, and had no other foundation than that upon which the distinctions in social life have and always will exist. Mental culture, which imparts knowledge, gives power over ignorance, and subjects to its control both men and things. The Creator made all men of one blood, and inferiority of races can only be predicated upon geographical differences, climates, soils, physical, intellectual and moral culture. There is therefore no natural but an artificial distinction—whatever be the color of men or races. But as Rutledge, of South Carolina, said: "Interest is the principle which governs nations and neither humanity nor religion. So, in the Southern States interest blinded the eyes of both humanity and religion so utterly, that their religious teachers declared slavery of the black man the divine right of the white man." But as the Lord said to the prophet in Israel, "I have reserved more than seven thousand men who have not bowed the knee to Baal," so there were in

the Southern States thousands who believed the Bible taught a better doctrine than Southern politicians or slaved lords, and if they must fight, determined to fight on the side of the Bible. The Southern leaders were well aware of this fact and adopted the most unfair and cruel policy to avert its consequences. The future historian, when he recounts the measures adopted and executed by the conspirators to destroy the Union, will call these acts by their proper names. In our exuberant charity now, in which a large element of personal and political interests is very visible, we use soft speeches and honeyed phrases. But the motives of this sort of milky, watery, soapy slop will pass away and the truth covered up by interest will rise again in the sunlight of the future and be as immortal as history itself. Such historians will tell how Isham G. Harris and his corrupt Legislature carried the State of Tennessee in their breeches pockets into the Southern Confederacy; how Fletcher, Wise and others slipped the Confederate cord around the neck of old Virginia; how Breckinridge and Buckner and McGuffin tried to make the home of Henry Clay a habitation for traitors; and Claiborne Jackson tried to steal Missouri from the Union. It has well been said "posterity is an impartial judge." And no matter how the paid eulogist or the partial partisan exaggerates what is good, or palliates what is bad, time's ultimate verdict is always discriminating and just. The idea of the

black man's natural inferiority, which was so long expressed and acted on as public opinion, was in fact a popular prejudice, described in the language of another as assigning to the black man a condition between the man and the brute, sometimes the one and sometimes the other. Man as an element of political power accountable and punishable; brute for all other purposes. This prejudice permeated large communities because of the recognition of slavery in the Federal Constitution, and its traditional influences in the States which acquiesced in it as members of the Union, but repudiated it as States, and because the new States were largely peopled by immigration from the old slave States; this prejudice gave the war one of its most embarrassing features. Jeffersonian Democracy and slavery are not homogeneous; but the slaveholders, rebellion and the Democratic party stood in the relation of earnest sympathy under the influence of party affinities and this popular prejudice; in short, there was a large pro-slavery element in most of the Western States and some of the Middle States, as well, an incubus upon the government in its attempt to save the life of the nation. This pro-slavery prejudice took to itself the name of conservatism, which an eloquent Congressman described as a "fossil petrification of humanity in want of the ability to see the line of progress marked out by the hand of Omnipotence, and the want of energy to follow it." It was in fact a rearguard of the

Rebellion, wearing the livery of the Union to serve the interest of slavery. It is simply amazing to contemplate the consequences which may flow from a prejudice. A man-stealer makes captive an ignorant, black barbarian, sells him to some covetous wretch who enslaves him ; the venture is repeated and a trade established. None deny their humanity, rationality, accountability and immortality. Infants in knowledge, yet capable of indefinite culture and improvement, they multiply as white people do, but they are slaves ; made so by men, and kept so by sordid interests. After while the black folks become an important factor in sectional productiveness. Denied the privileges of manhood, he assimilates to the brute in the mental conception of the owner, and is called a chattel. This idea is propagated, and the communities not specially interested in antagonism accept it without reflection, until it becomes the popular idea. The older it grows the more inveterate it becomes, until it is part of the web and woof of society. There is an eye that never sleeps, looking on the crime of its inception, and the myriads of crimes which have marked its baneful bloody way will come up for judgment. The minister of mercy to the owner cries: Oh! man, strike the manacles from your brother's hands and let the captive go free. He will not, but rivets the chains more tightly, and as the chains are tightened, so is the prejudice deepened. The years, the centuries, roll on ; the ever-open eye

looks on while the waters which flow from four million eyes, and the moans and sobs from four million hearts, broken by cruel bondage, swell in one long continued thunder-roll up to the throne of judgment. A voice from the throne is heard, calm, deep, solemn: The cup of iniquity is full. Mercy, return to your native sky. Dragons, from the fiery deep come forth, with all your implements of death, and slay until the blood shall flow in rivers from sea to sea. 'Tis done. The master and the slave mingle their common gore, and their spirits ascend together to the place of judgment. Slavery is dead; justice is vindicated; but is the prejudice dead? No. Those rivers of blood, that ocean of tears have not washed it out, nor will it die until God's word shall be accepted as truth that all men are of one blood, and the color of a man's skin neither gives character or value.

CHAPTER XVIII.

As it is too early to write the history of the greatest Rebellion in the world's annals, while the roar of battle and garments rolled in blood are fresh in the memories of the combatants; the deep prejudices and burning hatred engendered by the strife would warp the author's mind to give his work the shape and color of his own preferences. It is to be hoped that these passions will be cooled, and memories of the past lost, before the next great conflict shall come. The recent war was sectional, and therefore a rebellion; the next will be a civil war, in the nomenclature of nations. A truthful and impartial history of the causes of the conduct and consequences of the war should be written before that event, as it might have some influence on the postponement of the crisis which will surely come sooner or later, unless the Lord interferes. Nothing more will be attempted here than an outline of the lawyer's observations and experiences while the war continued. After the presidential election of 1860, and before Mr. Lincoln was inaugurated, South Carolina had begun to muster her military strength and openly prepare for war. Floyd, Secretary of War under Buchanan, had carefully transferred large quanti-

ties of arms of all sorts and stores, the property of the nation, to Southern ports, towns, deliberately stealing them under cover of his office for the use of the rebels. When he had so done, to hold his office longer might result in his being exhibited to the world high, and at the end of a halter; so he tendered his resignation to Mr. Buchanan, saying he did not think it *consistent with his honor* to hold the position longer; and he might have added, as there could not be more stealing done by him with safety. Mr. Buchanan tenderly accepted the resignation, and by the time the grand jury of the District of Columbia had found several indictments against Floyd, that worthy type of Southern chivalry had transferred himself near to his spoils and beyond the jurisdiction. Mr. Jefferson Davis remained in the Senate during this time, and there can be no doubt was an aider and abettor in these criminal transactions. It is morally certain that Davis, Floyd, Thompson, Cobb, and others, in the City of Washington, holding places of highest trust under the solemn sanctions of their official oaths, were the centre and nucleus of the Southern Confederacy, and every man of them should have been hanged as traitors. Why were they not? Not because the people or government was so merciful; not because the best interest of the nation did not require it; not because the enlightened judgment of mankind would not have approved it; but because scheming, ambitious, selfish politicians, who divided and dis-

tracted the councils of the nation to accomplish their own personal interests, shaped the policy of the government to the end that the guilty parties might escape, and the innocent suffer. The history of the world, from the creation, does not furnish a parallel to this Rebellion, and the manner in which it was treated by the government. It is not doubtful that there was intrinsic weakness in the government under the Constitution as it was before the war. The division of sovereignty between the Federal and State government was a solecism in fact as well as theory. There can be but one real sovereign over any people. Subordinate powers may be delegated by a people to inferiors, but no division of the supreme power can be made which infringes the national control. This inherent weakness was very clearly discerned in the timid and cautious policy of that most excellent man and patriot, Abraham Lincoln. Buchanan, upon the hypothesis of his loyalty, was afraid to move, and the first acts of Mr. Lincoln's administration should have struck the Rebellion fully in the front, while a watchful eye should have been kept keenly on the rear. As the government rested on popular opinion, the administration seemed to fear to go in advance of it. It was not until such sad and unnecessary sacrifices of human life and property as the fall of Southern forts and the tragedy of Bull Run that the millions of loyal people were awakened to the fact that the national life was threatened, and that

the authorities began to work in earnest. Mr. Lincoln's private opinions had much to do with his policy. A native of Kentucky, his early impressions upon the subject of slavery had doubtless taken form from his associations. Going into a free State, largely settled from Kentucky, his opinions were doubtless modified to the common sentiment of that people, that while opposed to slavery upon its own merits, yet it was legally guaranteed in the slave States, and as President he manifestly expected to accomplish the preservation of the Union and the conservatism of slavery in the slave States together. This grew out of fealty to the Constitution. This accounts for the appointment of McClellan to command the army of the Potomac with Fitz John Porter, Patterson and others, whose political opinions upon the subject of slavery were probably in harmony with those of the President, and whose failures in the war and their ultimate dishonor was the result of their politics rather than their disloyalty. The mountains of East Tennessee furnished neither soil nor climate for treason. Her children had been raised upon a higher plane than the swamp, lagoons and lands of the Southern coast. In imagination (at least) they were nearer the sky and breathed purer air, physically and morally. The government had done East Tennessee no great favors in the gifts of money to cut a way for her commerce through the mountains which encircled her; but the government had given her liberty to

plow her ridges and dig her ores and eat her frugal fare in peace, build her log school-houses and her unpretending house of worship in which to serve the Lord, and there were none to molest or make her afraid. The very breath of treason was a stench in her nostrils, yet the fetid smell came faintly upon the air from that cesspool of conspiracy, South Carolina.

The citizens of the town in which the lawyer lived met in the court-house, elected a chairman and secretary, appointed a committee to draft resolutions, and after some short addresses, adjourned, to meet again at a very early day. The lawyer, as chairman of the committee, drafted a series of resolutions strongly reprobating the course of some of the Southern politicians, and standing squarely for the union against all comers. Two other members had prepared resolutions—"one a little more mild in terms," the other full of fire and brimstone—against treason in general, and Charleston in particular. One of the resolutions of the series last mentioned declared it to be the duty of the government to send a fleet to Charleston and blow it into the sea. The resolutions unanimously adopted were as strong as could properly be expressed in utter detestation of treason and traitors in the South. Not long after this meeting the author of the brimstone resolutions went to Washington City, where he remained some time. His friends were utterly dumfounded on his return to hear him talk just as rabidly on the other side;

and soon after the war opened he became a candidate for the Confederate Congress, was elected and served in that capacity; afterwards was captured by the Federal forces. This instance is stated to show the influences which were brought to bear upon young aspiring men—loyal at the opening of the war, but drawn into the Rebellion by the temptations to political distinction—but more especially to show that Washington was one of the headquarters of the Confederacy, where doubtless Mr. Jefferson Davis & Company inveigled many into treason by flattery and promise of high promotion in civil and military life; in short, that Davis, Floyd, Cobb and others plotted treason under the nose of the government; held their official stations and drew their pay, all the time gathering recruits to the conspiracy. In the face of such facts, and the long and bloody rebellion which they led, not one of them paid the penalty of his crime! And Davis now openly challenges the nation upon the righteousness of his course. And the great body of the secession element calling themselves Democrats laud him to the echo. Candid reader, what is that great power, called popular opinion, worth to any good end? The man who strikes your dog may be punished; but the man who murders half a million of men is a hero. Such facts as these prove the men who deny the existence of hell to be cranks, or of such vicious lives that they dread a long sojourn in that uncomfortable place, and al-

lay their fears, or try to, by denying its existence. The magnitude of the hero's crime outstrips the capacity of the common mind to measure its guilt. There is nothing very strange in this when human nature is understood. The devil is the greatest criminal in the universe, and yet nine-tenths of the human family follow him blindly to their own destruction. Our grandfathers fought through a seven years' war to make this a great, free, happy nation. Their bodies have scarcely moldered in their dust before their sons are deluging their graves with each other's blood, because their fathers had left them too free. The thirst for blood was slackened by its flood; and the ebb is going on, and another flood—yes, a deluge—will come, because the old wound covered over by quackery, with many other malignant causes, which are even now very near the surface of the body politic, will make the nation rock and reel from its center to its utmost borders.

CHAPTER XIX.

THE winter of 1860-61 in Washington passed in almost total inaction by the government, while the conspirators were actively employed there and in South Carolina maturing their plans and organizing their military strength and keeping up correspondence in various ways with other slave States, seeking to secure co-operation in the first outbreak. Notwithstanding the earnest efforts which had been made by Calhoun and his followers, Pickens, Rhett, M'Duffie, Haynes and others for more than thirty years to educate the southern mind, to fire the Southern blood to rebellion, under the guise of "State Sovereignty," yet, when the crisis had been reached, there were haltings. No State but South Carolina seemed to be quite ready. There was pow-wowing upon the subject; and even in that hot-bed of secession, South Carolina, Judge McGrath, and perhaps others, would rather not be in too great a hurry. Indeed, it is almost certain that none of the slave States would have ventured upon the "sea of glory," which proved so far beyond their depths, if South Carolina had not made the plunge. She is, therefore, entitled to all the glory, as, also, all the infamy, of daring to follow so closely in the path of the son of the morning in

his revolt in heaven, as is possible on this lower earth.

Seeing the South could no longer rule the nation, as power was slipping from her hands, she was prepared to perpetrate the greatest wickedness in the history of man. It would be unjust to deny the governors of Georgia, Mississippi, Alabama, Florida, Louisiana, Tennessee and Missouri the full merit of having been on the 6th of November, 1860, fully pledged to secession, and in heart as vile traitors as Jefferson Davis, Esq., himself, and many hissing vipers of that breed were in their following in those States, as the event proved. Many of them held the opinion expressed by Sir John Falstaff, "That the better part of valor is discretion," in the better part of which they saved their lives and kept out of the range of bullets and bombshells. On the 20th of December, 1860, South Carolina passed her ordinance of secession. In January, 1861, Florida, Georgia, Alabama, Mississippi, Louisiana and Texas had passed similar ordinances. The Legislature of Tennessee, under the influence of Isham G. Harris and his parasites, had called a convention of the people to consider things as they were and should be. The question was submitted to the people, who decided by an overwhelming majority to have no convention. Harris with his conspirators continued to plot, but made no headway until the attack upon Fort Sumter on the 12th of April, 1861. When the war was thus opened, those men who had ob-

stinately refused to go into the secession movement, and who were led by the same John Bell who had been a candidate for the Presidency in the election of 1860, and who had brought up the rear in that election, issued an address to the people of Tennessee. He and his followers arrayed themselves on the side of the Rebellion by endorsing Harris's refusal to furnish troops at the call of the President, and to cover their design desired to remain neutral in the contest. Thus Bell and his party were lost to the Union cause. The Legislature then secretly authorized three commissioners to form a treaty with Jeff. Davis & Co., and that king, as he was called, appointed the spread-eagle orator, Gustavus Henry Totten, and Wash Barrow, who sold out Tennessee to the rebels—"lock, stock and barrel." These were all Bell-wethers and tinkled their bells, no doubt, at the said John's bidding. It was pretended that the State had seceded by the bargain and sale, because the Legislature secretly passed an ordinance ratifying it, which was said to have been submitted to the people on the 8th day of June. This was the meanest fraud and the broadest farce that could have been practiced; but it had the effect designed, to give some color to Harris's usurpation and reign of terror, which immediately followed. Harris sent his myrmidons over the State, but particularly over East Tennessee, with authority to disarm the people. In the enforcement of this tyrannical order no union man was allowed to es-

cape search and robbery. In the meantime the comparatively few secessionists in East Tennessee, emboldened by this high-handed usurpation, began to range through the counties, backed by a squad of so-called soldiers, calling upon the young men to organize and fight the Yankees. Knoxville soon became the rendezvous of traitors. The union men of East Tennessee having been kept from any organization for self-protection, partly from their isolated locality and partly by the indecision of the government at Washington, and the manifest halting of the Southern States in making the onslaught, but mainly by the secrecy of Harris's movements to throw Tennessee into the arms of the Southern Confederacy, were very soon like scattered sheep having no shepherd. There was a feeble effort at something like organization in the assemblage of a number of union men from different counties at Greenville. That convention was in session while the Confederacy was pushing men from Louisiana and other Southern States to join Beauregard's army in Virginia. The lawyer was in that convention, and saw the Louisiana tigers pass Greenville on the railroad, which had been surrendered to the rebels. The convention made a statement of the irregular and unlawful manner of hitching Tennessee to the Confederacy, and there were a few men for organized resistance, but the time had passed, and flight from the State was the only alternative. Horace Maynard, Andrew Johnson and Thomas A. R. Nelson were mem-

bers of Congress. They started across the mountains by separate routes. Maynard and Johnson crossed safely, but Nelson was captured, taken to Richmond, and was afterwards released upon his parole. After the adjournment of the Greenville convention the lawyer returned to his home, fully realizing the fact of the military subjugation of the State by the rebels. It was not long until a squad came to his home and demanded his guns. He had a rifle and shotgun. He knew resistance would be vain, and attempted to argue his own safety and that of his family required the possession of at least one gun. All in vain were such protestations. The guns they must have, and were taken under protest. About the same time another squad went to old Mr. Caldwell's, who lived in a mountainous part of the same county, and demanded his guns. He refused to give them up, and the miscreants shot him dead.

The government had allowed the rebels to seize the Southern forts, arsenals and shipping in Southern ports, to bombard Fort Sumter, while Twiggs in Texas had traitorously turned over his whole charge—arms, stores, ammunition, all—to the Confederacy. The loyal men of Tennessee could not comprehend these things, and but for their stern determination never to submit to this attempt to destroy the government and fasten the yoke of slavery upon them, would at least have been submissionist. Not so. The fact was, the heart-throbs of East Tennessee were always, even

in the darkest hours of the conflict, strong and constant for the union. By the apathy of the government and the sneaking practice of Harris and his Legislature, open resistance by any regular organization had become impracticable. Yet there were military companies in several counties formed for local protection. One of these in Hancock County was attacked, in which the old man Bird was wounded and his company was dispersed, leaving him on the battle ground. He crawled into a fallen tree-top, and was discovered by some rebels, who had volunteered to go upon this raid, dragged from his hiding-place, and being unable to stand on account of his wounds, was set up against a stump and shot to death for the amusement of those patriotic volunteers in the cause of treason. The counties of Carter and Johnson were perhaps more compact for the union than any others in the State. One or more of such companies were formed in them after the murder of old Bird in Hancock. The same volunteers (led by one Bynum, who was afterwards killed by as mean a rebel as himself), with others, marched from the town where the lawyer lived to wipe out these (Carter and Johnson Counties) scalawags. They had the smell of Bird's blood upon them and started upon a keen scent for more. The expedition returned very shortly, but if they achieved any glory it was never heard of. The failure to vindicate their rights on that occasion was said to be some controversy as to their rights *inter se*.

At all events, they struck no blows that brought blood, except from noses, amongst themselves, and chicken roosts and pig pens. The only material acquisitions as far as known were a few bed-quilts, doubtless stripped from some poor woman's bed, used to cover her children. Those boys of the mountains would doubtless have given these patriots a hearty reception and furnished them with a variety of keepsakes in the shape of bullets and buckshot, and holes bored in many other places than those already in their ears, for the wearing of rings when their hair was parted in the middle.

Before the fighting began, and while the slave States were being coaxed and cozened into the treason, the promise was that peaceable secession would be accomplished when all the slave States should have seceded; after all passed ordinances of secession (except Kentucky and Maryland) the idea of reconstructing the union would not be tolerated. Absolute separation and independence was the secession ultimatum. Cotton was king; Europe must and would have it at any cost; foreign intervention would take place; one Southern man could whip five Yankees, and such like stuff was swallowed by the ignorant gaping common people, until some of them thought the Union was gone and the Confederacy as good as established. These did not become rebels, but hopeless, and became more so by the fact that rebel cavalry in squads were scattered over the country,

pilfering robbing, murdering. The property of union men became lawful prize. Martial law was declared all over East Tennessee; provost marshals and enrolling officers appointed in every county and town, composed, often, of the most incorrigible rascals in the traitorous Confederacy.

“West H. Humphreys!” What thoughts start at the sound of that name! The future historian will give its synonym—a Federal judge for the district of East Tennessee doffing his office and assuming to hold the same place under the bogus Confederacy to escape the consequences of conviction upon impeachment already made by the House of Representatives in Washington! Sitting as a judge, under guard of rebel soldiers, upon the lives and property of men, the meanest of whom would have been disgraced by his companionship! The name of Jeffries, the blackest type of judicial depravity, oppression and meanness in the history of the English courts, may furnish a comparison with this monstrous prostitution of judicial integrity. His edict sanctioned—

The ruffians search the assassin's tread
That filled the land with silent dread.

The pen of the gifted (departed Nelson) shall epitomize the horrors of the drama.

What hissing curse, or crushing blast,
Shall be o'er perjured traitors cast;
Who swear their country to sustain,
But gladly gave that country pain.
Who can atone for all the blood—
That deluge like an angry flood,

And fills the land with groans and tears
That happiest stood among her peers?
The orphan child, the widowed wife
The soldier wounded, maimed for life;
The thousands who in lies believe,
The millions in their hopes deceived;
The cheerless home, the ruins black,
The fields thrown out to war's wild track;
The very horses starved and thin,
With ghosts of murdered men begin
In bitterest strains to chant, rehearse
The traitor's doom—the Tory's curse.

An acquaintance said once he never knew the lawyer to be in a hurry. Observation and experience had taught him "to look before a leap" as eminently wise, and thereby he acquired the habit of not seeing danger until it was almost, if not altogether, over. To look to the end of any trouble is true wisdom; to keep cool and let a kind Providence in his circumstances shape his course and destiny, were both prudent and politic. The Supreme Court of Tennessee having failed to hold the September term, 1861, at Knoxville, had appointed a special term in March, 1862. As the lawyer had business, he went at the appointed time; found everything in great confusion. General Casswell, who had been the clerk of the Supreme Court, was at the head of the militia—a clever gentleman in private life. Judge Robert J. McKinney was the only judge of the court present. The other judges did not attend, and there was no Supreme Court. The courthouse was, however, the theatre of some sort of bogus judicial doings, but whether West Hum-

phreys or George Krown were administering the Confederate law is not stated. Each wore the "judicial ermine," and both lent their aid to the Confederate cause. An election was about to come on for members of the Confederate Congress. John Baxter was reputed to be against secession, but while in Knoxville the lawyer understood he thought of being a candidate for the Confederate Congress upon the idea that in that position he could serve union men more efficiently than as a private citizen. Union men were very much in the condition of the fellow who was blown up in the circus. Having been thrown by an explosion into an adjoining lot and recovering himself, and not exactly comprehending the situation, said, "Well, what will they play next?" thinking probably the incident was a part of the performance. Union men did not see exactly what figure they were to make in the political tumbling of laws and order, and the imagination ran far ahead of the judgment of many minds, as it often, indeed, does in the more ordinary conditions in human life.

CHAPTER XX.

RETURNING from Knoxville, the town in which he lived was crowded with excited throngs from various localities upon a call for soldiers for the rebel armies. The church to which the lawyer belonged and was an elder (before the war), employed a Presbyterian clergyman to minister to it. There this mustering of volunteers was going on in the town, and volunteers did not so freely muster. This reverend gentleman took the street, harangued the crowd, urging young men to volunteer in the cause of secession. The lawyer was not on the street at the time, but soon got the report of what his "spiritual guide" had been doing. Indignant at such conduct, he encountered the preacher, and in terms less courtly than plain, told him what he thought of it. The preacher resented, stoutly charging the lawyer with being a "black Republican;" to which the lawyer replied in epithets whose significance fully represented the position of the reverend gentleman, and the two separated in mutual disgust. The warlike parson did not long minister to that church after this little episode. It may be truthfully remarked that the preachers of peace and good will toward men

in the South are justly responsible for much of the evil which sprang out of the conflict. Many of them, and notably those of the Presbyterian Church, had aided in the attempt to educate the public mind to the belief that slavery was a divine institution, slave-holding right, and the slave the property of his master, as his chattels or his money. The Presbyterian Church had been disrupted on this question, and the color-line distinctly drawn. Several years before the war, and when the war opened, the Presbyterian clergymen in East Tennessee were fully identified with this sentiment. It was strange to hear peace and pardon to all penitents who believed in Christ from the pulpit on the one hand, and for ministers out of the pulpit to be urging slaughter of their fellow-men. It is to be hoped they have obtained forgiveness. The wasted, wan skeletons walking or crouching in the mud and filth of Andersonville and Libby; the hungry, weeping widows and starving children, robbed of husbands, and fathers, and bread, are all within those chronicles which neither time nor chance can destroy. Let us hear what an eye-witness wrote of the clergy of East Tennessee, 1863.

“The clergy, whose proper business it is to declare on earth peace and good will toward men, with a few memorable exceptions, forgot their calling and clamored for war, when no man in the United States could truthfully say he had ever been oppressed by the government. After a few

defeats, after thousands of widows and orphans had been made in the land, in a great measure through their influence over the public mind, they began to walk softly before their Maker and to pray for peace. Let them now in good faith practice the repentance which they preach to others."

Religious frenzy has brought terrible suffering and prompted to the commission of awful crime in the visible church; and if the late Rebellion had involved a question of liberty of thought and opinion upon the subject of religion as to principle or practice, the course of the clergy would not have been so astonishing, but they preached that all men were made of one blood; that Jesus Christ died for all men; that all who believe on him will be saved, and that all who believe are brethren, whether Jew or Gentile, bond or free. It could not, therefore, have been to sustain their religious conviction, or defend their religious freedom, that they bellowed treason from their pulpits and practically made themselves accessory, before and after the fact, in the crimes committed by those who were deluded by their teachings and maddened by their exhortations. In May, 1861, the Rev. R. M. Palmer, of New Orleans, a distinguished Presbyterian and a D.D. in the Church, preached a sermon (which was published) entitled, "Slavery a Divine Trust." His first proposition was, "that such a trust became the pledge of divine protection, and fidelity to it determines the fate by which it is overtaken." His second proposition was,

“that slavery should be conserved and perpetuated (as then existing) with the full scope for its natural development and extension.” His third proposition was, “Southern slaveholders were constituted guardians of the slaves.” His fourth proposition was, “that to conserve and perpetuate slavery was to defend the cause of God and religion.” “Who shall entice Ahab, King of Israel, that he may go up and fall at Ramoth Gilead? I will entice him, and be a lying spirit in the mouth of all his prophets.” That a lying spirit prompted this sermon does not admit of a doubt. There is one notable fact which must not be overlooked with a view to the animus of the secession clergy of the Presbyterian Church. In view of the terrible calamities resulting from the attempt to perpetuate slavery by the sword, and the utter overthrow and discomfiture of its champions in church and state, clearly showing the hand of a Divine Providence in the result, it would be expected that Christians who had been so active in the struggle on the wrong side, would have not only seen their error, but would have confessed it and sought reconciliation and peace with those of like religious faith. Has this been the case? Every candid mind will make its own inference.

Just as the slave power before the war demanded for its own growth and strength the acquisition of Louisiana, the territories of the Creeks and Cherokees, Texas and a part of Mexico, the repeal of the Missouri Compromise, so has the Southern

Church ignored all attempts at fraternal relations with their Northern brethren for more than sixteen years since the close of the war, demanding concessions which could not be granted. Happily, a better spirit has been developed in this year of grace, 1882, and while it wrongs none to speak the truth in regard to the past, as a warning and instruction to all who desire to learn, it is earnestly hoped that this is the beginning of an enlarged charity and enlightened Christianity for the glory of the Head of the Church and the temporal and eternal welfare of the members. It may be asked why the civil and spiritual commotion did not subside at the same time. The answer is, "The forces operating upon each were different. The civil outbreak was subdued by physical force; the other can only be conquered by that moral force which the spirit of true Christianity exerts."

At the muster of volunteers, before mentioned, in the town where the lawyer lived, a number of young men of slaveholding families, and sons of Democratic leaders in the county, were induced to enter the Confederate service, some of whom soon found bloody graves. Indeed, it soon became evident that all able-bodied men under the age of forty-five years must fight for the Confederacy or fly, and many went into the army as volunteers because they feared conscription, who would not have served the rebel cause if they could have seen a way to have avoided it. The May term of the Chancery Court came on at the lawyer's town;

martial law was enforced in the county, and a provost marshal in the town. The honorable judge of the court had been required to take the oath of allegiance to the Confederate States, which he did under protest. When the court opened, the provost marshal sent an order to the judge requiring all the lawyers at court to take the same oath. Several members of the bar were rabid rebels. The judge handed the order to one of those lawyers and the same was passed around until it reached the lawyer. No remark having been made by any one, the lawyer looked at it, handed it to some one else, rose from his seat, took his hat and walked out of the court-house. Shortly after two other lawyers loyal to the United States came to him in the street, and in a few minutes the court adjourned (*sine die*). Hon. John Netherland and Hon. A. A. Kyle were those lawyers. They soon crossed the mountains into Kentucky, where many union men had already gone, leaving their wives and children to join military companies to fight their way back under the stars and stripes. The lawyer was in doubt as to what to do with himself. If he remained at home he must live with his life in his hand, ready to be delivered at any moment. To leave home would be to abandon his feeble wife and young daughters to the mercy of a reckless soldiery and scarcely less reckless roughs around them. He had not a kinsman within a hundred miles. He was in his fifty-fourth year, was not subject to conscription as the law

then stood. He was not afraid to leave his slaves, for he was sure they would not injure his wife and children, and if they ran off it would only anticipate their liberation, for he had said in the canvass of 1860 the first gun fired against the union upon this question would be the death-knell of slavery. While in this state of mind, the high sheriff of the county came to his house. He was a brave and whole-souled union man. He had ostensibly started to what he gave out as an execution sale, to take place beyond the mountains toward Kentucky, but in fact was on his way to that State to join the Federal army. He was a special friend of the lawyer's. They surveyed the whole subject. It was known to be a very laborious journey across the mountains to be made mainly in the night and on foot—the distance over one hundred miles to a point of safety. It was finally concluded the lawyer had better not go. To have gotten into the army would not have been more dangerous than to stay at home, and active military employment was far better than the lingering suspense and anxiety which he must suffer surrounded by enemies and uncertain when to be relieved. The sheriff thought the lawyer could not bear the fatigue of such a trip, and it was finally determined the lawyer should stand his ground and face the result. The sheriff departed to join others on the route, and had a rough journey and narrow escape, but at last got through, joined the army, became captain of a company, was captured afterwards

and shut up in Andersonville (that still running ulcer upon the Confederate name), and though afterwards exchanged suffered terribly in that loathsome place, unfit for swine. He still lives, and his name is Elias Beal.

CHAPTER XXI.

THE surest way to avert danger is to look it full in the face—meet it squarely and boldly. There is a mesmeric power in the eye that never falters and the cheek that never blanches. Physical courage is insensibility, and has no moral character; true courage comprehends the danger and accepts its challenge. Cowardice itself may imitate bravery when placed in circumstances where to fight is a necessity. This was very much the situation of the lawyer from May, 1862, to near the close of the war. As every able-bodied man under the age of forty-five was required to go into the rebel army, the union men who had remained at home up to this time began to drop out of sight. Pilots, as they were called, who had crossed the mountains in Kentucky, returned to take their Union friends out, and there was soon constructed in this manner what was called the underground "railroad" and the grapevine telegraph. Most of their expeditions were successful; a few were disastrous. A sad case was that of the two young men, John and Hugh Rupel, sons of Elijah Rupel, an aged Christian man, whose two sons were the mainstay of his industrious and Christian family.

These young men were remarkable for their modesty, gentleness and purity of character; were highly esteemed by all who knew them. Finding they must go into the Rebel army, or escape to Kentucky, they left their aged parents to the care of divine Providence, and started to cross the mountains. Reaching Clinch River they were arrested by Rebel scouts, and were both killed.

The lawyer visited the bereaved family. Sad was their condition, and deep their sorrow. The two courageous daughters procured a horse, and traveled to the place where their brothers were murdered, something under a hundred miles, and had them decently buried. The family lived on the bend of a very high ridge, their woodland almost inaccessible. That old man in the deep snows of winter toiled up that rugged hill, and with feeble hands rolled wood from its sides to kindle their winter fires, for help could not be obtained in all East Tennessee. This underground railroad and grapevine telegraph was kept at work until the Union men, subject to the conscription, were well gleaned out.

Another catastrophe occurred, the wounding and subsequent death of Capt. James Lane by Rebel scouts in crossing the Cumberland Mountains, the bold and successful pilot who had conducted many beyond the Rebel lines. Many lives, doubtless, were lost in those mountains whose names will never be registered in the book of time. Such scenes were being enacted in the mountains,

and a Presbyterian clergymen in Knoxville implored the Almighty from his pulpit that the bones of these refugees might bleach on those mountains. Very soon the Union men of the lawyer's town were nearly all gone. Guerilla bands, claiming to belong to the Rebel army, were engaged generally in the plunder of the property of Union families. One of these bands was commanded by one William Owens. His company was a band of cut-throats marauding around seeking to shed blood. They found a lad of some sixteen years whose name was Lizemore. His father was a Union man, and quite aged. This gang of desperadoes arrested the old man, took the boy into the woods, and deliberately murdered him. What became of the old man is not certainly known. He had another son called William, who had been regarded as rather inclined to the support of the Rebel cause, but on the brutal murder of this young brother he rushed to the support of the Union men, and took terrible revenge. Whether the Confederate commander in East Tennessee commissioned Owens to plunder and kill in order to subdue the loyal sentiment of that section, as Reynolds and others were trying to do in other counties, is not stated. One fact is known viz: that Owens was recognized by the Rebel military as a captain, and the inference is fair that as his operations were confined to two or three counties, his business was to suppress Unionism in these counties. Loyal men were not

allowed to kill "copperheads" in the North and West, though they were doing the national cause more injury than the old and unarmed Union men and boys in the Rebel States could possibly do to injure the Rebel cause. And this fact is a fair index to the temper of the two belligerents and sections. The one was governed by the spirit of humanity, using no force beyond what was necessary to the preservation of the integrity of the nation. The other, in the spirit of demoniac ambition to rule them, in defiance of justice, humanity and the intelligent sense of all enlightened and Christian nations upon the earth, drew the sword, threw away the scabbard, reddened the hearthstones of their brothers' homes with the blood of their children, or took away their bread, and left them to starve or live upon roots and herbage—dragged old men from their homes, drove them before them like cattle through rain, mud and snow, kept them in sheds or barns, empty of straw or hay, or in outhouses, without bed, blanket, fire or food. It was not uncommon for men and boys who did not pretend to belong to the Rebel army to go along with these squads of bandits, acting as guides to houses or hiding places of Union men; as fierce in their pursuits and arrests as the guerillas themselves.

It was a gala time to cowardly wretches who were malignant toward their neighbors. Too dastardly to assail them upon equal terms now that they had professional cut-throats to do their fighting, they

took great delight in setting on the "bloodhounds," but most generally kept back in the bushes, so that if they were ever called to account they might aver their innocence. These outrages were not confined to the more populous portions of the counties, but were often perpetrated in the hills and hollows, and usually upon men reputable at home, but bold enough to confess their loyalty. Indeed, it was a rare thing to find a man who had a bad character before the war advocating the Union cause. It is true some well meaning men were disunionists in sentiment, but they had been educated to think slavery right, and had now fallen into bad company. Civil war always develops the worst characters, and more fully uncovers the hypocrites. There is a class of human character fair to the seeming, but black as the shadow of the earth when revealed. These were the times to try the man. If a man had in him some remnant of the nature which the Creator gave to his great-grandfather, it would at least glimmer in his acts, but if the moral image were utterly defaced, the defacement would be apparent. This last class of persons then seemed to be ubiquitous. The families of those men who had gone to Kentucky were subjected to great hardships. Many women, poor before the war, making a scanty living with the aid of their husbands, were now left to eke out a bare subsistence with the hoe, for horses the Rebels would not allow them to keep, and when after a whole summer's toil the woman and her little ones

had cultivated a small patch of corn, potatoes, cabbage or beans, some Rebel squad would come along and plunder it.

But the meanest character the war brought forth was the cunning sneak who was a full-blown Rebel with Rebels, and just as loyal as the best with Union men. One such the lawyer happened to know, and it is gratifying that the class was small. This fellow was so sharp as to be trusted by both sides. A relative starting to Kentucky left his wife and children on his little farm until the husband should return with the Federal army, in the care of this professed loyal Rebel, who promised to attend to their wants. When the absent husband and father returned, he learned from his wife that this unworthy "trustee" had been most active in robbing her, and by his knavery and trickery at the close of the war had accumulated means enough to buy a farm, when, as before the war, he was not, in common parlance, worth a "Chincapin." But like all men of his class and character he soon disappeared from the theater of his operation.

A demoniac spirit, revolting to humanity, seemed to have taken possession of many Rebel families. Standing on the street the lawyer saw a boy of one of the near neighbors riding up, holding the end of a rope in his hand, while the other end was tied around the neck of one James Walker, a man over fifty years of age, of good character and property. This young cut-throat was leading this old

man, haltered by the neck, walking or trotting on foot behind the boy's horse. The old man's offense was his loyalty to the Union. This boy led the old man through the main street of the town and out of it some miles. This young outgrowth of the Rebellion belonged to the guerilla band headed by Owens. There were disloyal men in town who did not approve of such barbarity, but they were powerless against this band of desperadoes, and, therefore, could only express regrets among themselves. For more than two years the lawyer was almost literally penned up in the town, and mainly at his own home, threatened almost every day—soldiers riding by taunting him, boys throwing stones into his yard, bullets fired into his house through his transoms, ruffians stopping before his door, and hurraing for Jeff. Davis and the Southern Confederacy by way of insult to himself and family. Squads of hungry soldiers, demanding food, and getting none, poured anathemas upon his head. The lawyer had ample opportunity to cultivate mental discipline and reliance upon that Providence which he believed would keep him more safely than he could keep himself. Acting upon his well settled conviction that a craven spirit will provoke contempt and oppression he resolved never to let a single Rebel or a thousand make him falter. And this, under Providence, was his safety. This was courage upon compulsion.

But the lawyer had some accidental advantages.

He lived very near the Female Institute, the principal of which was a true type of that class of men who are all things to all men, a highly cultivated gentleman, of benevolent heart. As the institution was at that time patronized mainly by Rebels he was regarded as Southern in sentiment. Before the war the College had been under the control of a Board of Curators, of which the lawyer was Chairman at the opening of the war. Now the principal was in charge upon his own account by an arrangement with the Board. These circumstances brought the lawyer and the principal to be friendly and familiar. Fascinating and persuasive in conversation and manners, desiring to prevent personal strife and private injury, he was very active in interposing his good offices when Union men or their property were threatened, and, doubtless, saved many from serious damage. It was remarkable that though Southern in sentiment, he did not seem to apprehend any great danger to himself or others when the Federal forces were about. The reader who lived in that locality will readily recognize Dr. Todd. It is not certain whether he was a relation of that "broken-hearted widow" of the lamented "President Lincoln." A few influential and worthy men in the town were warm personal friends of the lawyer, though strongly favoring the success of the Rebellion. The policy of the Rebel government was to crush out the Union sentiment in the South, and as there was more of it in East Tennessee than in other

sections which had been wheedled into the Confederacy, Union men in that loyal region were peculiarly obnoxious. About this time there were not more than half a dozen Union men of any prominence in the town and neighborhood where the lawyer lived, but this number was too large to suit the aforesaid policy.

A Rebel officer, with a squad, came into the town, and arrested a worthy man who had a large and dependent family, and who had a brother in the Rebel army, but whose family connection was mainly loyal. They arrested also another man, more wealthy and prominent, and took the two under guard all the way to the city of Richmond, the seat of the beast. A Rebel brother Mason warned the lawyer of the coming of the Rebel command that he might avoid capture. Very shortly a Virginia Major came to the town to procure the lawyer's attendance on that center spot of Confederate authority. The Major happened to go to the house of an old Rebel friend of the lawyer's, and communicated his purpose. That friend of thirty years prevailed upon the Major to turn his attention to something else, and thus through the influence of one of the most disloyal men of the town the lawyer was rescued, for that time, from arrest. Such loyal men as were still sprinkled over the country (a very few in any neighborhood) kept faith with each other, and it became as refreshing to meet one of them as a near absent friend.

The "grapevine" telegraph from time to time brought tidings of preparations to rescue East Tennessee. And while the stamp of "steed" and "boom of cannon" were anxiously expected, and hope of relief often deferred, the Rebels plied their vocation of harassing Union families, old men and women. Arrests were very common even by citizens not soldiers. News was brought of the arrest of Haygood by two Presbyterians in the upper part of the county, Thomas N. Price by a merchant, and others. Then that George W. Moore had killed a Mr. Brown; that Rev. E. E. Gillenwaters, afterwards Judge Gillenwaters, had been arrested and imprisoned by Rebel citizens; Benjamin Ross by Monehun and other citizens; then Ben Rodgers by Larkins and other citizens; John O'Donald, a near neighbor of the lawyer, by order of the Provost Marshal without special charges; then Miller by Moor and others; then Patrick O'Conner by Levissey and others; then Jolly by Watkins and others; then Peter Jones by Cantrell and others; then Preston Heck by Simpson and others; then James McGinnes by Hipshen and others; then Solomon Lizemore by Anderson and others; Ed McGinnes by McCoy and others; then Ward by Phipps and others; Dr. John W. Mapis by Burem and others; Jones by Ball and others; then Joseph Tucker by Long and others. The particulars of these several cases would make a volume. Conscript officers were ranging in search of recruits for the overthrow of the Gov-

ernment. One of these so intensely set upon the ruin of the Union, as it was, seemed willing to recognize Isham G. Harris as king, and to press into the service of the king every boy in the land who was able to carry a gun. He pressed a boy not subject to conscription, as it was alleged, by the name of Light, who was soon afterwards killed. The father brought suit after the war closed, but Johnson's policy of reconstruction restored power to the Rebels in Tennessee, whose new Supreme Court set its broad foot upon war damages, as was to have been expected from *particeps criminis*, and the suit was finally abated. Because of the systematic persecution by guerillas and citizens as well, saltpeter caves and hiding-places were sought by Union men who, thus concealed, with bated breath listened for the bloodhounds in human shape, and hoped for the coming of the stars and stripes. The number of Union men in the lawyer's town was reduced to three.

In the meantime the Union element in the churches had been scattered, and the Old and New School congregations had been depleted until but a handful could be gathered from the debris of both. These remnants had agglomerated in the church building in which the lawyer was an elder, but under a new regime. The recruiting preacher had gone to other parts. Adhesion to the Southern Confederacy was a practical condition of recognition in this new birth under the old death. The lawyer was no longer at home in that former

sanctuary which was now more of the character of a political meeting-house. A man of fair literary attainments was employed, by whom the lawyer did not learn to dispense Southern Confederacy theology to that brother-loving body of professors. Old-fashioned Christianity was at a discount in the town, as it generally was in the South.

CHAPTER XXII.

THE lawyer went, on a certain Sabbath, to hear the gospel, or so much of it as should be preached by the new man in his old church. Whether the lawyer's presence prompted the preacher on that occasion, or whether his political "tea-kettle" boiled over by inadvertence, is not stated. But an idea may be gathered of the character of his speech by the following quotations from it: "That old running sore on the body politic, fetid with every foul stench, Horace Greeley." "Of course, Roberson had a salutary fear of 'blue jackets,' and when they came along split the wind in a hasty flight down into the depth of Dixie, and how much lower is not known."

As the war progressed with alternate victory and defeat, with the sacrifice of thousands of precious lives, all men began to realize it was a life and death struggle. And while the lawyer felt assured the Rebellion would be crushed, and slavery swept from the land, yet the time it might take to accomplish it could not be clearly foreseen. All professional business suspended, food and raiment becoming scarce, collection of debts impracticable, except in Confederate paper, in which he would

not deal, he began to meditate escape into the Federal lines, but not without taking his family along.

He applied to a member of the Confederate Congress from his district to aid him in getting a passport for himself and family across the military lines. Accordingly the Congressman wrote to General Buckner, then in command at Knoxville, recommending the grant, and stating that the lawyer would be of no use to the Confederacy. General Buckner replied, promising the passport at a future day, if no public interest should forbid it. With a view to such exodus the lawyer wrote to a former banker at Knoxville to procure funds which should be recognized as having any value beyond the Confederate lines. He received the following answer:

“KNOXVILLE, Tenn., Oct. 1, 1862.

“DEAR SIR:

“Your favor of the 31st ult. received. I have received neither bank notes nor coin for sale. You can buy coin in Virginia at one hundred and forty premium; that is, \$2.40 for \$1.00 (two dollars and forty cents for one dollar). Bank notes also can be had there at from fifteen to twenty cents premium.

Your obedient servant,

“S. MORROW.”

Thus Confederate paper at Richmond, on the 1st of October, 1862, was at a discount of one hundred and forty per cent. The bank notes referred to were notes of the banks of seceded

States, and the discount referred to their value compared with Confederate paper. But Confederate paper soon became so plentiful and cheap that "bank notes" were hid away. In the financial flood in the end bank notes were a little better than Confederate promises. The lawyer has several bank bills, and the only evidence they furnish is of banks that were, but are not. Kentucky, the native State of the lawyer, was to be his refuge, and to assure himself that in escaping Scylla he would not plunge into Charybdis, he wrote to Kentucky for information of the attitude of the State toward the Confederacy, and received the following answer:

"CLERK'S OFFICE OF COURT OF APPEALS, }
Frankfort, Kentucky. }

"DEAR SIR:

"Yours of the 16th was received. Kentucky is in the Union, and there she will remain, immovable by sensational dispatches or camp lies. We shall take care of John C. Breckinridge and his co-conspirators. Respectfully, etc.,

"LESLIE COMBS, Clerk."

I had relied on Tennessee, but she went off in a panic for the snake concern. It is painful to witness the hypocrisy patent upon the surface of the public utterances of secession leaders as to their designs. General Combs refers to J. C. Breckinridge in the above letter as being "taken care of."

When Breckinridge and Lane were nominated

at Baltimore, both, being at Washington, were serenaded, and made speeches. Breckinridge said: "I understand that apprehensions are entertained in highly respectable quarters that the National Democratic party is a party of disunion men, and intends to break up the union of States [cries of never, never, we intend to preserve it]. I can not bring myself but to think that their fears are utterly groundless. Allow me to add a word in regard to myself. When that convention selected me as one of the candidates, looking at my humble antecedents, and the place of my habitation, it gave to the country, as far as I was concerned, a personal and geographical guarantee that its interests were in the Union."

Lane said: "Let no man ever say that the party that placed in nomination that gallant and gifted young Kentuckian, John C. Breckinridge, and associated my name on the ticket, that there was one drop of disunionism in the nomination, for no man would go farther to preserve this Union than I would [applause]. None would go farther than John C. Breckinridge" [renewed applause].

Does any one imagine Jeff. Davis and Breckinridge did not understand each other, both in the Senate, and, doubtless, in full accord in purpose in the Baltimore Convention, which was manipulated by traitors? Howbeit, some of its green-members might not have been fully in its secrets.

General Combs bore his full share in taking care of Kentucky, and the gallant and gifted young

Kentuckian, John C. Breckinridge, found, much to his mortification, doubtless, that Kentucky did not understand her interest, and her duty as well, to be in the Union, and in spite of the uttermost efforts of Vice-President Breckinridge, Governor McGuffin, Morehead and Buckner and that ilk, who could not move her to break the faith of the fathers, whose motto was: "*Esto perpetua.*" The dark and bloody ground, its ancient appellation, famous for hemp—a useful article—had no fame for treason, and did not desire to acquire any. It is indigenous to all natural soils to produce weeds, but a clear distinction in the species and quality must be made. Some are not poisonous; others are deadly nightshades or "Upas" under which nothing lives. The latest and most destructive of intellectual weeds grown on Kentucky soil were soon transplanted to more Southern latitudes, where their peculiar views could be kept in more active circulation.

The Supreme Court before the war sat at Knoxville. In September, 1862, the lawyer received the following letter from one of the judges, a personal friend of many years:

"KNOXVILLE, Aug. 28, 1862.

"DEAR SIR:

"I take it for granted that we shall have no court next month; such seems to be the general impression of the bar. I do not look for either of the judges from the West. Judge Cooper has gone to Europe, as I am informed, and Judge

Wright is said to be with the army in Mississippi; perhaps so. As for myself no commission has been sent to me, and I have made no application for one, supposing the election returns were not complete, and in the existing state of things not regarding a commission of much consequence.

"I regret that you think of moving from East Tennessee, and yet I do not much wonder at it. I fear that at the close of this revolution, whenever that may be, or whatever may be the result, our social condition will be such that a residence here will scarcely be desirable, if even tolerable. I would myself be glad to find a hiding place somewhere until these calamities be overpast. If you should finally conclude to emigrate to Missouri it will afford me pleasure to furnish such a testimonial as is suggested in your letter.

"Very respectfully, your obedient servant,

"R. J. McKINNEY."

The reader will determine for himself how much respect Judge McKinney had for secession. He had large pecuniary interests to be guarded, and a conservative course in that respect was prudent. It was greatly to be regretted that Judge Wright was drawn into the active support of the Rebellion. He was greatly esteemed by the bar of East Tennessee. "Cooper," that name suggests the idea of a barrel, but in the case of His Honor, the Judge, proof is furnished that the name often does not furnish the slightest idea of the thing which it

purports to represent. The Judge by no stretch of the imagination could be likened to a barrel, unless it should be the barrel of a "pocket pistol." He has been called a Kansas grasshopper. How the sobriquet was given him may be imagined, at least, from the hop he made from America to Europe when the war commenced. He was a Democrat before the war, and since this leap across the Atlantic meant something, was he in the search of his genealogy to trace his ancestry to some noble house a little below the royalty, so that when the Confederacy should be established (*protempore*), soon to go into an empire, he might claim prestige of birth and blood, or did he go from Jeff. as Dormant's commissioner adjunct to Mason and Slidell or otherwise? Of course, he did not go to aid Blackburn, of Kentucky. From his appearance one would not judge him to be a man of war, but Walter Scott said Sir Geoffrey Hudson was war-like though the Duke of Buckingham proposed with the jerk of his thumb to kick him from Dover to Calais across the British Channel. If the Judge had remained in Dixie he might have been the peer of General Mahone. The reason of his going is at best conjectural. It is most just to suppose he went upon his private business, just as it happened when the great "State Debt Case" went into the Supreme Court of Tennessee at Nashville recently, his honor having received an addition to the "Cooper" of LL.D., and being the only acknowledged Doctor of Laws on the

Supreme Bench, was prevented from sitting in judgment in that important case by his private business. He had obtained some State bonds. How lucky sometimes to have a plausible excuse.

CHAPTER XXIII.

As the war progressed the Rebels found that they had undertaken a big job. The attempt to overthrow free government and establish slavery by force of arms could not succeed in the nineteenth century. The conflict between sectional and personal pride and conscious weakness began to be apparent. The desperate efforts to fill up the constantly thinning ranks of their armies were marked by little intolerance toward any who dared to avow loyalty to the stars and stripes. Many acts of cruelty and crime will not be revealed to the world at large, but are carefully registered in that record of the deeds done in the body.

To be aroused at midnight by Rebel soldiers in search of plunder, horses, meat, flour, corn, or anything they could use, even to whisky; to be threatened and vilified as a Lincolnite and traitor to the South, was the lawyer's experience almost daily. Through the winters, springs and summers of 1862-63 he had waited for the passport which never came. A widowed mother and a sickly son desired to go beyond the Rebel lines. The young man had hemorrhage of the lungs. The lawyer was applied to for advice. He wrote to John

Baxter upon the subject, and received the following letter.

KNOXVILLE, Tenn., August 21, 1863.

DEAR SIR:

Your favor with enclosures from Mr. Crawford came to hand this morning; I handed the same to Major Martin, Adjutant General to General Buckner, and requested a passport for Mr. Crawford and his mother. He replied that General Bragg's department had been recently extended all over East Tennessee, and that application would have to be made to him. General Bragg is at or near Chattanooga. I have no idea that he will grant one, but if Mr. Crawford desires it I will send the same forward to him. Let me know if he wishes me to do this. I will make no charge for the matter. A good deal of excitement and a great many rumors in town. It is believed that Rosecrans and Burnside are both advancing on East Tennessee. In this condition of things it is difficult to get the military to give much attention to outsiders.

Very respectfully,

JOHN BAXTER.

This letter was grateful to the mother and son; also to the lawyer, for he knew the writer was posted, and the coming of Burnside was no fiction. The news made the poor, persecuted, almost broken-spirited Union people feel so jubilant and valiant they were ready to cry havoc and let slip the "dogs of war." The raids of Federal cavalry

into East Tennessee from time to time had momentarily thrilled the heart of her Union people only to drop into a deeper despondency, which indicated the want of force to give permanent relief; but now, Burnside was coming to stay, and he did come, and he did stay. East Tennessee from that time became the theatre of not merely conscription, depredation, plunder and murder, but actual war. Though Buckner made haste not to allow Burnside to capture him, and Rosecrans had obtained a position at Chattanooga very uncomfortable to both Buckner and Bragg, yet the country above Knoxville was still infested with guerillas, fractions of regiments and companies scattered over the counties so as to make the Rebel soldier sometimes appear ubiquitous. The country between Knoxville and Chattanooga having been pretty well rifled of Rebel military, and the railroads in the hands of the Federal forces, General Burnside turned his attention to upper East Tennessee. Suddenly and unexpectedly the Second Tennessee Infantry (mounted) dashed into the lawyer's town, run off or captured the few Rebel soldiers who were loafing about; surrounding the house of the Confederate Congressman, who happened to be at home, took him prisoner, as also another prominent Rebel, who had been a United States Indian Agent, and took them off to Knoxville. This Indian agent and Congressman were friends of the lawyer's, and, though he greatly disapproved their course as Rebels, he felt concerned for these

men. Dr. Todd, ever ready to help in benevolent work, informed the lawyer of the capture of the two men, and proposed to go after the command and intercede for them if the lawyer would go along. Thereupon they procured horses and followed the command four miles to the crossing of the Holston, but did not reach it until the last company was fording the river. They were informed that the prisoners were so far ahead that they could not overtake them. Turning back towards town, they were met by a battalion of Rebel cavalry. This placed the lawyer in a critical position—known to be a Union man, coming from the river where the Federal forces had just left, the point was clear that he had been with them and aiding in their work. He expected to be arrested on the spot, but he kept cool and rode along with the crowd, as they could not pursue any further. He reached home, ate his supper and waited events. Shortly there was a call at the gate. The lawyer went out and met at the gate the notorious “Bill Owens” and a soldier on horseback. Owens said, “You are under arrest,” and turning to the soldier said, “Take him to headquarters.” One of his daughters brought out his hat, not knowing what was to be done. The lawyer was told to march over to the court-house, and he took up the line of march, while the soldier, his gun across his saddle, rode behind in the most approved style of a cattle driver. Reaching the court-house he was driven into a hollow square formed by the

troops. This seemed to be an impromptu prison. The lawyer did not say a word, but stood for a half hour in this pen, the soldiers saying nothing to him. He knew nothing of what was going on outside, but learned afterwards that Dr. Todd and the old friend who had saved him from arrest by the Virginia major had appealed to the command to release him, Dr. Todd stating the facts of the following of the Federal regiment and the old friend protesting that it would not do to carry the lawyer off. So, after such imprisonment for a limited time, the guard ordered his release. He immediately returned to his home to relieve his helpless family of the trouble and grief of his arrest. The mother and daughters who read this story can understand the reaction in the hearts of his wife and daughters better than they can be described by any word-painting of the same.

From that time on to the end of the war this town, as well as upper counties of East Tennessee, became contested grounds, the Rebel forces coming in and the Federal forces driving them out, and the Rebels returning after the Federals had diminished their forces and driving them out; so that system of advancing and falling back alternately between them kept both sides on the alert and the non-combatants in constant dread—Union people afraid of the Rebels and Rebel sympathizers afraid of the Yankees. The more active their military movements, the more intense became the excitement of citizens and more bitter the persecu-

tions of the defenseless. Rebels under lead of a desperate bandit called Reynolds perpetrated terrible crimes upon Union men and families, and Owens spread terror wherever he went. On the other hand, William B. Lizemore, in command of a Federal scout, dashed into the lawyer's town, where some Rebel soldiers were quartered, and killed every man of them, so that their dead bodies were left lying on the sidewalks and in houses where some of them took refuge. Dashing around town Lizemore met the miscreant who had led old man Walker through the streets with a halter around his neck, and instantly killed him, and left him lying on the side of the road, taking his horse. Lizemore took a terrible revenge for the death of his brother. How many men he killed can not be stated, but so much alarm was created by his raids amongst Rebels the lawyer was notified by a Rebel officer that the two or three Union men in town would be held accountable for any killing Lizemore done. The meaning of this was that the lawyer would be assassinated if he did not stop Lizmeore's slaughter of the Rebels.

Some time afterwards it was understood that Lizemore was within five or six miles of the town. The lawyer and another Union man went out to see Lizemore and inform him of the threat; while within a quarter of a mile of Lizemore's camp a Rebel force came dashing by, and taking Lizemore by surprise, routed his men and took some of his horses, but hurt nobody. This was another criti-

cal position in which the lawyer found himself, but he was not arrested, and returned home. The same influence that shielded him heretofore doubtless interposed in his behalf. But as time brought things near the crisis in the general war, so the danger grew more apparent every coming and departure of Federal forces to and from the town. His danger was imminent, because these forces invariably came to his house, and the idea got amongst the Rebels that he was giving them information and counsel. On one occasion a mounted company of Federal soldiers came suddenly into the town, passed his house at a gallop and surrounded the house of a colonel in the Rebel army. The colonel happened to discover the cavalry in time to make his escape. The rebel force was a short distance from town and the cavalry immediately returned. In a few days the fugitive colonel with a battalion came into the town. The lawyer, walking through the main street with his eldest daughter, numerous soldiers being in the street, he was accosted by this colonel in very rough, blasphemous and insulting language. In surprise, he said: "What do you mean by such language to me?" The colonel replied with an oath, "You set the Federals on me and tried to have me captured." The lawyer and daughter were in the midst of Rebel soldiers ready to execute any order the colonel might give. The lawyer replied, "I did no such thing." The charge was repeated in similar language, which roused the lawyer to retort that it

was false. The soldier said not a word, and the lawyer, holding his daughter's hand, walked off to his home. He probably would have been arrested but a brave soldier naturally sympathizes with one who stands alone, but shows no white feather. A difficulty between the colonel and the lawyer before the war may have had something to do in evoking the present incident. Some of the lawyer's friends feared he would be arrested that night, but some unlucky wind turned their faces to some other direction, and the next morning not a soldier was to be seen. All the forces of General Burnside not being needed below Knoxville, he sent two regiments to the lawyer's town under the command of Colonel Garrard, who remained in the town several days and was then removed four miles above the town to camp at Big Creek, where he remained some time.

One morning after breakfast the lawyer stepped to his front door, when the sudden roar of cannon broke upon his ear. He listened;—another and another,—then the dim clatter of musketry; and thus the cannon boomed and musketry rattled for some minutes, and all was hushed. The Rebel General E. Jones, with a superior force, had stolen upon Garrard, attacked and routed the Ohio regiment, Garrard and his staff escaping with most of the regiment. The brave Daniel Carpenter and his Tennessee boys stood their ground, and it was this intrepid regiment whose guns had been heard. They fought until surrounded—some of them

killed, more wounded and most of them, with their chivalrous commander, were obliged to surrender. A few hours afterwards some soldiers with ambulances brought the wounded men of Carpenter's command into the town and one of the hotels was turned into an impromptu hospital and some were quartered in private houses. One noble woman, the wife of one of the men taken to Richmond by the Rebels before mentioned, though she had a large family and limited means, took a number of them, and with the benevolence never beheld within the lawyer's knowledge, nursed and fed them like a mother. She is now in that better land of the blessed, doubtless; but let her husband, children and friends, who yet live, keep fresh in memory the name and virtues of Mrs. A. P. Caldwell.

Nor should be forgotten the noble self-sacrifice of the benevolent Russell family, who nursed anoble soldier at great labor and self-denial for weeks, until death closed his eyes and ended his sufferings. These men were left by the Rebels to be taken care of by Union people, and here, as in similar cases, the Rebels seemed to be totally indifferent to their fate. One, whose name was Roberson, died, and the lawyer, with three or four Union men, buried him in the churchyard of the Second Church, then vacant. The lawyer and a few others buried the soldier who died at Russell's, as also a soldier from Michigan, who died at Mrs. Caldwell's. One other Tennessee boy died at the hotel; his father

came from Knox County and took him home to bury him. The most excellent and pious doctor, Hugh Walker, ministered to such as had need of medical aid. Though a decided Democrat, his charity did not fail. The already sorrow-stricken family of Elijah Russell (now very aged) had more to suffer. The young man Crawford, mentioned in Judge Baxter's letter, was the grandson of Mr. Russell. A weakly youth and his widowed mother could not get a passport beyond the Rebel lines. When General Burnside came in, this young man joined a company of home guards to defend Union families. His company was attacked by a Rebel commander, Colonel William Brazelton, and captured, and after young Crawford had surrendered, he was shot by Colonel Brazelton himself, as was alleged. He lingered until his mother reached him and then died in her arms. He was a noble Christian boy; before the war was engaged in selling Bibles and Christian literature in destitute families. Thus, the last man of the Russell family, except the old grandfather, had fallen by the hands of the Rebels. The rough raider, General John H. Morgan, with his flying brigade of Rebels, came into town and made his headquarters at the College. The lawyer, when a boy, knew Morgan's grandfather, John W. Hunt, who was a leading merchant in Lexington, Kentucky, in 1820. John's father was from Alabama, and married the old man's daughter, a very accomplished young lady, who became the mother of this renowned

officer. John had all the pride of caste peculiar to his birth and surroundings, and soon allowed friends, foes and neighbors to witness it. An order was sent from his headquarters to bring before him all the Union men in the town and vicinity; they were summoned to appear before this military celebrity. The lawyer felt curious to see how this one Murat had waxed so great as to know the special business in hand. Appearing, as commanded, he recognized his Kentucky stock in his personnel, and very soon the air and bearing of the slave autocrat. In substance his speech was: "Confederate soldiers or citizens must not be molested in any manner by Lincoln men. If armed bands, calling themselves Federal soldiers, should molest or kill any citizen of Southern sympathies, as Lizemore had been doing, the Union citizens would be held accountable for such outrages. The life of a Union man should pay for the life of any one loyal to the Confederacy." As there were but two or three Union men in the town and present on this occasion, they felt the speech addressed to themselves, in a quite particular and personal manner. There was no reply to be made to this speech, as it was much in the manner of the death sentence. The Union men retired from the august presence. The lawyer was the marked man, but the "Great Raider" did not honor the town by a long sojourn. The sound of horses and their riders in the distance put the galloping brigade into its normal tramp, and lo! they

were not there. General Humphrey Marshall, an old college-mate of the lawyer, also came into the town, but he gave the Union men no trouble. The rebel non-combatants were under the necessity to change their base very often, and several men of note of that class made the town a temporary refuge. The pastor of the oldest Presbyterian Church of Knoxville, and a relative of his, the son of the lawyer's last legal preceptor, stalwarts of secession, made a temporary sojourn on their retreat from the contagion of loyalty. Their stay was short. Quarters were becoming uncomfortably close, and "Sherman's March to the Sea" was narrowing the area of secession in Dixie, while General Gillen's brigade soon occupied the town. The main force of the Rebels in upper East Tennessee were on the south side of the Holston, above Greenville. Gillen's command took up the line of march to Greenville. The lawyer went along and reached Greenville in the afternoon, found all quiet above there; but tidings from below were not comforting. There were rumors that Wheeler's Rebel cavalry in force was between Greenville and Knoxville, moving up the railroad and destroying it. Next morning, Gillen's command was in motion on the back track towards the lawyer's town, which was reached at night in the midst of a terrible thunder-storm. In the meantime, Sherman was understood to be coming upon Wheeler's track, and the latter officer struck with speed towards the Cumberland Mountains,

while General Gillen took a more northerly direction towards Virginia, through Hancock, but fortunately the country was so rough as to intercept his travel, and thus his march was delayed until he learned Wheeler was flying the other way, when he leisurely marched toward Knoxville by the way of Bean's Station; his brigade not being within thirty miles of Wheeler at any time during the raid. This was a retreat in good order upon rumor. The lawyer remained at home, as his services were not likely to be required on the retreat. Some time afterwards, General Gillen's command was at Bull's Gap. The Rebels were in considerable force some distance east of the Gap. Colonel Kirk's regiment was about a mile in advance of headquarters. Suddenly guns were heard in the front and "to horse!" the command rushed apparently ready for the fray. The lawyer sat on his horse beside Colonel Miller and saw the flush of his face as he eagerly looked to see the Rebels advance; but they did not come and the lawyer did not see a battle.

CHAPTER XXIV.

By the first of January, 1864, food had become scarce and appeared more so than it really was, as citizens concealed it. The lawyer had not been able to lay in his usual supplies in the fall, and in January, 1864, he found his stock of provisions running short. He had not been able to keep a horse regularly since the summer of 1862. One cold, snowy, rough day, through the kindness of a granger, he obtained a horse, and set out to hunt supplies. He rode about eight miles to the farm of a Union man and told his business. The farmer said: "I killed so many hogs and I knew if the Rebels found them out they would take them, so I hid them away and I have them now, and you shall have as much of them as you want; and a Mr. C. went up the road this morning hunting corn with a wagon, who will hardly be loaded, and I will put the bacon on his wagon, and you take care that the Rebels don't get it." "Well, Brice, what shall I pay you for it?" "Never mind," said he, "about the pay now; when the war is over we will settle that." The lawyer went a mile further, and secured some corn from his client, Looney. After the war Brice and the

lawyer settled about the bacon very satisfactorily, and he felt grateful to his friends for their helping him in his time of need. Clothing had become scarce ; material could not be gotten, and there was no money to buy it. The lawyer's good wife and daughters patched and mended, and his Sunday pantaloons were turned front to the rear to hide patches. In the progress of the year, the supply of bread ran low. The lawyer had procured a few bushels of wheat which had been hidden in a garret with his meat and other small articles. This wheat must now be ground with much trouble and delay. The lawyer procured an old stack of bones in the form of a horse and an old rickety carryall, neither horse nor carryall strong enough to freight the wheat and the lawyer too. So the wheat was loaded up, and the skeleton started pulling the reeling, squeaking vehicle after him, and the lawyer walked and drove the old horse four miles to a mill belonging to a loyal man, waited until it was ground, loaded up his flour and drove the old horse and walked himself back to town, making on that day a trip of eight miles. He was not molested on the route. He had bought thirty cords of wood, ready to be hauled, within two miles of town. He had gotten a yoke of oxen and agreed to let a man have them upon the condition that the man would deliver the wood at his house in town ; the man took the oxen off, sold them, and the lawyer lost them, and the man never hauled the wood.

In the midst of a storm, the lawyer took an axe, went upon a high ridge, cut a small oak, and at about dark managed to get it home. Snow several inches deep. Shortly after, Colonel Vaughn's Rebel regiment came into town, found the lawyer had this cord wood. They were magnanimous enough to drop some of it at his door. Bare of clothing, he was greatly gratified by the receipt of a letter from Knoxville, written by his friend, Hon. A. A. Kyle, with a full suit of cloth clothes for himself and supplies of clothing for his family. Just before, Dr. John Shields sent him three yards of jeans, woven by this family, for pantaloons, so that the lawyer thanked his friends and became no less loyal. The fortunes of the Confederacy were rapidly waning. The loyal States so long distracted by domestic traitors, claiming to be Democrats and for the Union, as it was, were now thoroughly roused. President Lincoln and the Congress had at last discovered that physical force could alone crush this gigantic conspiracy against the life of the nation, and now were resolved to do, and did, what they ought to have done in 1862. Now the command of the armies was given to a man who never was heard to admit a defeat, even when repulsed, whose purpose never faltered, whose hand never slacked, and who, by the magnetism of his own heroism, drew around him the invincible spirits of the land. "Go," said Lincoln to Grant, "and crush this serpent's head; strike the top and the bottom will fall out." And see

the mailed hand of this mighty leader striking the Rebel hosts right and left, pressing Lee back upon Richmond, while his favorite subaltern and peer in prowess pushed Bragg out of his command, and forces Hood deep down into the busy heart of Dixie. How the slaveocrats began to howl and roar like sucking doves. Atlanta falls, and with it the brave and noble Francis M. Walker, the lawyer's former junior partner; allow a tear to his memory. Hood retires, and Johnson, the Fabius of the Confederacy, slowly recedes in the direction of Richmond, leaving Sherman to make leisurely visitations to the various sections of the country which had grown the valiant men, one of whom could whip five Yankees. True, it was sacred soil, but Sherman was a vandal, and did not worship the gods of that people; their most sacred cities, Columbia and Charleston, the first seceding, and the last firing the first gun of the war, were no more respected than their little towns. Doubtless, many hoary secessionists of both sexes took up the doleful lamentation, Alas! alas for these sacred cities, that they should be desecrated by the feet of these Northern vandals, while the negroes clapped their hands, shouted and danced, for their jubilee had come. While these dark portents of the coming fall of confederate power frightened the more craven spirits of East Tennessee, many were made more fierce and reckless. So critical had the lawyer's position become that his friends thought it best for his

safety to go to Knoxville, but how to get there was the question. About the first of February, 1865, he learned of a married lady whose husband was then in Knoxville and who desired to go to him. She was then temporarily at the house of her brother-in-law, who was a Rebel sympathizer. It was arranged that this lady and the lawyer should go to Knoxville in company, whenever the Rebel scouts, who were passing up and down the country every few days, should be above the town. A Union man, a friend of the lawyer's, learned his design and sent him a very fine young horse. Such families as had friends in Knoxville, brought letters to the lady and a few to the lawyer, one from the Rev. Mr. Austin to Governor Brownlow. A lawyer, who resided near Bean Station, an original secessionist, was in the town, because his home was too near Knoxville to be very comfortable on account of his antecedents, professed to be the lawyer's friend, gave him a note to one Clark, a sort of partisan leader in Granger County, with the assurance of protection by Clark out of respect to the writer. The town had been quiet for several days and they supposed the way was open to Knoxville. Bidding farewell to his anxious wife and daughters, the lady mounted on a strong mule and the lawyer on his friend's horse, left the town, taking the old stage road. The morning was cloudy and dark; they traveled near four miles, meeting no one, but within the fourth of a mile of "Marble Hall," they were met

by twelve armed men ; the lady turned out of the road to the left, while the lawyer rode between her and the line of armed men. Meeting the head of the line, the lawyer was accosted.

"Where are you going?" He replied, "To Knoxville." "What are you going for?" The answer—"Upon my own business and some for other people." "How long do you expect to be gone?" The answer—"I do not know; I hope not long." "Have you any letters?" was asked. Answer—"Yes, a few," handing two or three from his pocket. The letter from Austin to Brownlow was in his saddle-pockets. His letters were looked at and returned. "Has that lady any letters?" "You may ask her," was answered. Troutman turned off to the lady, who delivered a bundle, and the squad gathered to look at them, leaving one Fleming to engage the lawyer's attention. Fleming asked, "Do you know John M. Fleming, at Knoxville?" Lawyer—"Very well." Fleming—"When you see John tell him his mother would like to have some clothes." Just then the squad began to huddle the letters together to take them off. The lawyer seeing this called out, "Don't take the letters off, but if you want to examine them ride back to Marble Hall, and if any should not go to Knoxville, destroy them, but let the lady take the remainder to her friends, who would like to get them." And back to Marble Hall they went, dismounted, told the lawyer to come in and help look at them. The lawyer dis-

mounted, took the Brownlow letter out of the saddle-pockets, leaving the lady on her mule. The letters were opened and read, but nothing developed. The good lady of the house got possession of most of them. A huge Rebel stepped up to the lawyer and said, "You have something we would like to see." "Yes," said the lawyer, "a letter to Governor Brownlow." This produced a stir. It was handed out. This was contraband, and laying his hand upon the lawyer's coat collar he said, "What have you in this?" and running his hand down, feeling for his pocket-book, asked to see it. It was shown, and the Rebel turned over a few greenbacks, looked at them very earnestly. Mrs. Charles H. Rice, for that was the lady's name, came very close to him. The Rebel said, "I will not take his money." Mrs. Rice said, "You examined it very closely," and the pocket-book was returned. Just then the gang started out and left the lawyer and Mrs. Rice to gather up the letters. This done, the lawyer went out and found this man Fleming putting his saddle on the lawyer's horse, and before he could get to him Fleming mounted and galloped off at full speed.

The man Clark was of the company, and was then told of the note written to him by the Bean Station lawyer, and was asked whether they would allow his horse to be taken in that way. Clark ripped out a terrible oath and said, "Yes; any man who will take a letter to Brownlow ought to have his horse taken." In the meantime Fleming

was out of sight. From Clark's manner and from his statements in the town to which he immediately went, he was on the point of shooting the lawyer, but a Dr. Blivins, a Rebel surgeon, happened to ride up and remonstrate, saying it was wrong and would be retaliated by the Federals. The band was understood to be under the command of one Gallagher. The lawyer was thus left with his saddle and bridle and an old bare-footed, sore-backed mare, which Fleming had left in place of the fine horse.

Under the momentary excitement the lawyer proposed to return to the town, but the lady and Mr. and Mrs. C. Rice prevailed upon him to go on. Mounting, the lawyer and lady pursued their way, meeting solitary soldiers two or three miles until they reached Chop Lack; here they were informed that a Rebel force had been scattered along all day, and how many were behind was not known.

The lawyer took the lady's mule and his one-eyed mare into a back yard, and there concealed them while they stopped in the house of Mrs. Minerva Blevins. Late in the afternoon they resumed their route, but before they had proceeded far beyond a mile they met a whole captain's company of Rebel cavalry. The lady again turned off to the left and the lawyer rode between her and the line of soldiers. Not a word was said until the rear of the company had been reached; the captain then turned out to meet the lawyer. Politely bowing, he asked if there was any news

above. The lawyer replied, "None; everything is quiet above." The captain said, "We had a little fight with Lizemore below, took some of his horses, but his men got away. Good evening, sir," and passed on. That night the travelers stopped at the Red Bridge, and were kindly entertained by Mrs. Rogers. Very early next morning news was brought that a company of Rebel cavalry were coming down the road, and were about one mile off. This, with the events of the previous day, looked ominous of evil. Starting as soon as possible, and reaching the road leading to the river, the main road was left, and proceeding some half-mile, the party met Captain John Profet, who put them in the way to reach the river, and they rode down it on the north bank toward Knoxville. Thus they pursued their dubious route, zigzag, to avoid the public road, until they got beyond the reach of these Rebel bands. Three days and nights were spent in making the trip of about sixty miles. The fourth day at noon Knoxville was reached. The lady stopped in East Knoxville with a relative and the lawyer walked across First Creek, leading the old mare to Crozier Street. Meeting a man near Lion's boarding house who was from his own county, he called out, "Haloo there! you want to sell that mare?" "Yes," answered the lawyer quickly. "What will you take for her?" "Thirty dollars," was the answer, and the bare-footed, sore-

backed, one-eyed bag of bones was sold to him at thirty dollars, and the lawyer went into the boarding house, where he remained all night. The man Clark was soon after killed.

CHAPTER XXV.

THE 10th of February, 1865, found the lawyer sixty miles from home, his dependent family, a feeble wife and two female children, with a half-dozen slaves. He committed them to that kind Providence which had kept them and him through the trials of the past. The city was now very much like a military camp: the heights scarred with rifle pits and boarding-houses of all grades full of refugees or quondam traitors seeking amnesty by oaths taken to save the labor of the langman and their property from confiscation, impenitent and hating the government they were swearing to support. There were no regular hotels in the proper sense of the term. The Lamar House, at which the lawyer had been in the habit of stopping from time to time while attending Federal and Supreme Courts, had been stripped of its furniture, and was now kept by two gentlemen with an impromptu furniture of common sort. To this house he went in the morning after reaching Knoxville to secure lodgings. He found no place empty, but was furnished a room in the third story without carpet, wash-stand or anything else than the most common bed and a single

chair, and plain food, for fifteen dollars per week; this was the best he could do. This matter arranged, he went out to meet such acquaintances as might be found and see what business he could get to meet this expensive mode of living, his stock of ready cash being small. He soon met many friends who sympathized with him in his escape from durance vile, in which he had been so long kept within Rebel lines amongst many others—Hon. Seth J. W. Lucky, A. A. Kyle, Thomas A. R. Nelson and others. The Federal and States Courts had been re-established in Knox County; and though Lee and Johnston were still in the field attempting to stem the tide which soon overwhelmed them, the lawyer and the courts on the one hand, and General Samuel Carter with his blue jackets on the other, were busily engaged in righting some of the wrongs which had been done by the "valiant Rebels" in their day of power. West Humphreys had fled to the shades of Cerberus, on the Siberian Bogs, and the bench was now worthily filled by Hon. Connelly F. Trigg, who had fled across the mountains into Kentucky in 1862, pursued, but nothing captured save his saddle-bags, now was returned to dispense justice to those who made him fly. George Brown had found the private station the post of safety, if not of honor, and the Hon. Elijah T. Hall now held the balances so evenly that even Rebels could not charge injustice, and loyal men got their rights so far as the laws could

restore them. Some wrongs could not be redressed, but await the Great Assize, at which the judgments of human tribunals will be reviewed and all unadjudged causes heard and determined according to the eternal principles of Truth, Justice and Mercy.

Hon. A. A. Kyle procured the lawyer his first considerable fee. A distant relative of Mr. Kyle's, with another person, had been sued in the Circuit Court of Knox County for damages of \$25,000. Through Mr. Kyle's influence the lawyer was retained for the defense at a thousand dollars.

As was to have been expected, the Union men who had been driven from their homes by the military usurpers, aided in many instances by non-combatants, and now returned to their plundered homes, and insulted wives, and naked and hungry children, should feel the blood grow hot when in the presence of men who thus acted. About dark one evening the lawyer walked down Gay Street and was joined by an acquaintance at Mitchell's drug store, where his old friend, Captain Beal, with several others stood. The lawyer had not seen him since he left their own town to join the army. The meeting, of course, was very cordial, but the captain, turning to the man by the lawyer's side, said, "Is your name ——?" The man replied, "Yes." Immediately the captain struck him a furious blow with his cane and beat him severely,—indeed, endangering his life, until he was,

with great effort, caught and held until the man got away. The captain then told the lawyer the man had ill-treated his family while he was a prisoner in Andersonville.

Such occurrences were not uncommon. Indeed, it was dangerous for a Rebel to appear in the streets in Knoxville if known to have persecuted Union people during the continuance of the usurpation. It would be gross neglect not to mention here the character of Northern people toward the poor and destitute people of East Tennessee.

Four years of very partial tillage of the soil, with the ravages of war, in almost every part of East Tennessee, had made supplies of all sorts scarce and high in price, while the thing called money would scarcely buy at any price.

The lawyer before leaving home had procured one bushel of salt at twenty-five dollars. This destitution prompted the transmission of supplies from the loyal States by philanthropists and loyal men, and Knoxville was a centre-port for their distribution, and very helpful it was to many worthy families and individuals. Prior to this the Northern heart had not been understood in the South. The Southern idea of Northern men, and women as well, was that of cold selfishness, cunning, avaricious, unscrupulous, hunting the dollar at home and abroad, in all lands and amongst all people, even to the ends of the earth; and that other idea of theirs, non-combativeness, was begotten of this supposed love of money. The bat-

tles of war and the overflowing charities which had spread themselves over the South like waters from the clouds have shown how little the South knew of the noble impulses of that brave, generous, industrious, enterprising and hardy people. East Tennessee should ever remember that the loyal Northern heart was with them in all their dangers, privations and sufferings, and the whole South should quit the lead of their worst enemies—those who led them into rebellion; forget the dead slaveocracy; give up their foolish and anti-Christian prejudices, and recognize the fact that the war was God's instrument, rough in its use, but most beneficial in its results to all classes of the people—opening up to the nation a prospect of prosperity, happiness and glory which shall in history eclipse the grandeur of all ancient and modern nationalities. Will the South understand and act upon this truth?

On the 11th of March, 1865, a little more than a month after the lawyer reached Knoxville, President Lincoln caused a commission to be made out at the State Department in Washington, which was forthwith sent to the lawyer, as United States Attorney for the District of East Tennessee, and the lawyer entered upon the duties of that office. The Federal Courts having been re-established in the year 1864, a district attorney had been appointed (*pro tem.*) by the Circuit Judge. That officer had inaugurated some business in the District and Circuit Courts under the acts of Congress

relating to the Rebellion. The act of Congress of 17th of July, 1862, entitled: An Act to suppress Insurrection, to punish Treason and Rebellion, to seize and confiscate the property of Rebels, and for other purposes; by the Eighth Section provided, That the several courts aforesaid shall have power to make such orders, establish such forms of decrees and sale, and direct such deeds and conveyances to be executed and delivered by the marshal thereof, where real estate shall be subject of sale as shall fully and efficiently effect the purposes of this act and vest in the purchaser of such property good and valid titles thereto; and the said court shall have power to allow such fees and charges of their officers as shall be reasonable and proper in the premises.

This was the main confiscation act, and in the class of confiscation cases clearly vested the courts with the power to allow the officers such compensation as such courts might deem reasonable and proper. The District Attorney (*pro tem.*) having filed information under this act against the property of Rebels in several cases, the first step taken by the lawyer as District Attorney was to consult the Hon. Judge Trigg, in whose court such information had been filed, in regard to those fees and charges, because the attorney *pro tem.* had filed the informations only, and the present attorney must prosecute them. In that consultation it was distinctly understood by the judge and attorney that the matter of compensation in con-

fiscation cases was wholly under the control and direction of the judges of the courts, and wholly independent of any legislation by Congress as to fees and emoluments and other classes of cases. The judge then told the attorney he would apportion the fees in cases then pending between the late attorney *pro tem.* and the then present attorney, and this was done, as the records fully show. In this the judge followed the opinion of the Attorney General, Hon. Edward Bates, as is seen from the following circular :

“ ATTORNEY GENERAL’S OFFICE, }
January 8, 1863. }

“General instructions to District Attorneys and Marshals relative to proceedings under the act of Congress for Confiscation :

“The President of the United States has charged the Attorney General with the superintendence and direction of all proceedings to be had under the act of Congress of the 17th of July, 1862, and the act of August 6th, 1861, commonly called the “Confiscation Laws,” authorized and required him to give to the attorneys and marshals such instructions and directions as he may find needful and convenient touching all such seizures, proceedings and condemnations. In the execution of that duty I find it necessary to give but a few preliminary instructions relative to the seizure of property, with a view to condemnation under the law.

“The law requires the proceedings to begin with seizures. When once seized and property reported to the district attorney, it will be proceeded against in court. Then each case becomes an action pending, and the laws themselves are the sufficient instruction to both the attorney and marshal in all ordinary cases. If unforeseen difficulties arise in the progress of a cause, so as to embarrass the district attorney or marshal as to his mode of proceeding, he should report to this office, stating the precise facts, and asking instructions upon the point of his difficulty.

“With regard to seizure of property, the following instructions are given :

“1. All seizures will be made by the marshals of the proper district, under written authority to be given him by the district attorney, specifying with reasonable certainty the property to be seized and the owner, whose right is sought to be confiscated.

“2. When the marshal has seized any property under such authority, he will, without any unnecessary delay, make a true return thereof, in writing, to the district attorney.

“3. The district attorney shall keep in his office, fairly written in a book, a duplicate or exact copy of every such order of seizure made by him and directed to the marshal, and the marshal keep in his office, fairly written in a book, a duplicate or exact copy of every return of seizure which he shall make to the district attorney, and this, as

well for their own safety as for the information of the government and the court.

"4. The issuing of the order of seizure is trusted to the discretion of the district attorney, and while he ought to be vigilant to execute the law, he ought to be careful to avoid hasty and improvident seizures. In every instance he ought to be satisfied that there is "probable cause" for the seizure, and that he has reasonable ground to believe that he can prove in court the facts necessary to warrant the condemnation; for otherwise, besides the injustice done to individuals, the government will be put to great expense and will be discredited by the frequent failure of its prosecutions. The district attorney must necessarily do this part of his duty upon his own judgment and his responsibility. He is on the spot and has the means of knowledge while this office can not have the requisite information of the facts, nor govern the details of prosecution in the multitude of cases that will probably arise in all the districts of the nation.

"5. As to the manner of making the seizures, I can do little more than suggest methods of convenience. When the State laws direct the method of seizure, it should be conformed to as nearly as may be consistent with the object of the acts of Congress. If the thing to be seized be personal property, it ought to be actually seized and safely kept; if real estate, the marshal ought to seize the right, title, interest and estate of the accused

party, giving notice in writing of the seizure to the tenants in possession, if any; if stock or other intangible property, the marshal ought, if there be no specific method prescribed by the State law, to describe the property as plainly as he can in his return, and leave the court to determine the sufficiency of the seizure.

"6. I am credibly informed that in various parts of the country, property has been seized by military officers, with a view to confiscation under the acts of Congress. In all such cases, where the military officer in possession is willing to surrender the property to the civil authority to be proceeded against according to law, the marshal shall receive the same and make return thereof to the district attorney, as required in No. 2.

"7. After the seizure of the property, the district attorney will, with all convenient speed, proceed in the proper court for the condemnation of the property seized.

"As this is a new class of business in our courts, Congress has thought proper to put your fees and compensation upon a new basis. The act of July 17, 1862, section eight, page 591, prescribes that the said courts shall have power to allow such fees and charges of their officers as shall be reasonable and proper in the premises.

"EDWARD BATES, Attorney General."

There was a certain senator in Congress in the year 1864, professing greatly to be for the Union,

from the State of Illinois. His name is Lyman Trumbull, Esq. And there was a certain Assistant Secretary of the Interior, whose name was "Otto." These men, in their great zeal for the salvation of the nation, put their heads together and concocted a bill entitled: "An Act in Relation to the Fees of the Clerk of the Supreme Court, District Attorney and Marshal of the District of Columbia, and Other Purposes." This bill, it is believed, was leveled at the head of Hon. Return J. Meigs, then Clerk of the Supreme Court of the District of Columbia. While Congress and the loyal people were bending all their energies to subdue the Rebellion, every officer and soldier in the army, and in the civil service as well, urged and stimulated by the favors of the government to discharge their whole duty upon every theatre of action, these men got through the Congress a measure, which, if it had been understood as subsequently interpreted, would have been rebuked by those bodies as hostile to the war. Suppose Congress had been asked on the 27th of June, 1864, to reduce the soldiers' pay, would not every loyal man have said, the mover of that proposition was a traitor at heart? This bill has been construed to be in principle precisely like that. The confiscation law was to be crippled. Is it at all wonderful that this man Trumbull was superseded in the Senate, and that he should be now a full blown Democrat? The name Otto is so round as to scarcely be kept from rolling;

where he has rolled is not known, nor is it material. Neither the Hon. Judge Trigg, the District Attorney, *pro tem.*, or the new District Attorney, knew anything about this act of 27th of June, 1864; nor did Mr. Otto or any other official at Washington ever give an intimation that such an act existed, or in any way affected the fees and charges of the officers of the court. Under the eighth section of the act of the 17th of July, 1862, before mentioned, during the four years of the lawyer's official term, to-wit: from March 18th, 1863, to March 18th, 1869, so that for his whole term the attorney and the court acted under that law of 1862, supposing that all allowances made by the court to said district attorney in confiscation cases, were rightfully to be kept by him and used as his own. When the attorney's term commenced, March, 1863, General Grant was besieging Richmond and Petersburg, while General Sherman was marching through the Carolinas. In the meantime the agents of the government were actively employed in East Tennessee in making seizures of Rebels' property, real and personal, and reporting the same to the district attorney for libel; and many were coming in to take the oath of amnesty to avoid the penalty of treason, while the armies in Virginia and Carolina were still struggling in the dying throes of the Rebellion. Upon the surrender of Lee on the 9th and Johnson on the 25th of April, a flood-tide set in of all grades of Rebels and Rebel sympathizers towards

Knoxville. The Federal court met in May, 1865, and the hundreds already under bonds came, and witnesses swarmed before the court with their stories of treason and traitors. The district attorney and grand jury worked like beavers for weeks and got in shape only a portion of the multitudinous cases. What a contrast was now presented in the appearance and conduct of the great throng of people in the city of Knoxville to the crowd which held high carnival in March, 1862, in the same city, under the reign of Isham Harris and his minions; then Tennessee was a sovereign State and Isham her "quasi king;" then "to the sword", "to the cannon, and the battle" was the trumpet call of stalwart heroes of the stars and bars; "go with your State," "fight for your rights," was the eloquent exhortation of lawyers, judges and high privates; but now anxious apprehensions of impending doom, the tremor of unstrung nerves, the pale cheek from which the blood shrunk back, marked the masses as they listened to be called to their account by injured Union men or the proclamation of law. There were a few whose Rebellion became more intense as they witnessed scenes thus presented. Baker's murder of William Hall brought sudden destruction upon himself, and Ashby provoked his death at the hand of the Hon. E. C. Camp. Indictments for treason, and aid and comfort to rebels, and information against their property accumulated, until the number reached over one thousand; several hundred of

these being informations. The larger number of seizures of property was in the counties contiguous to Knoxville. The Rebels continued to raid in the upper counties until after the surrender of Lee and Johnson, and, indeed, in the month of May in that year, the district attorney had to rely upon the military for safety on a flying trip to see his family, whom he had not seen since he left them in February. Overt treason was a rare crime in the United States. The case of Burr was of national notoriety; there was a near approach to it in South Carolina, 1833; before and since that memorable discontent there have been traitors but no treason, until the slaveholders' Rebellion, which was the bursting out of the flame which had been smothered for thirty years and was now quenched in blood. Though Congress had been slow to push its legislation to the extreme point needful to break the back of this insurgent leviathan, it had nevertheless annexed penalties to the crime which might well make the guilty tremble for their lives. But where shall a parallel be found in the world's history of that magnanimity which marked the dealings of the government with its bitter internal foes? While justice was threatened, mercy was tendered, and now that the war was over and the Rebellion no longer available, and the courts had to deal with the offenders, that mercy was accepted and thousands, who must have otherwise suffered the penalty of their crimes, escaped so easily that the whole proceeding had much the aspect of a

drama from which the tragic had been viscerated. President Lincoln's proclamation of December, 1863, was not only in pursuance of the mind of Congress, as expressed in the act of July 17, 1862, but also the expression of that benevolence for which he was so distinguished in public and private life. That proclamation was the open door through which the material body of the Rebellion re-entered their fathers' fortress—the Union. The windy element of the Rebellion was not embraced in the amnesty, but, though the principle leaders were indicted, they did not grace the too loyal East Tennessee with their presence, after their sad experience of its loyalty. The district attorney had some desire to bring Mr. Jefferson Davis before an East Tennessee jury and wrote to Attorney General Speed that there was an indictment against said Davis in the Circuit Court of the United States for the district of East Tennessee, and if the authorities would send Mr. Davis (who was then in Fortress Monroe) to East Tennessee, he should have a fair trial; but other and perhaps better counsels prevailed. In the thousands of indictments in that court, but one was tried who did not rely upon an oath of amnesty or special pardon. To the indictment against him, the plea of not guilty was entered. The charge rested upon the fact that he had accepted the appointment of conscript officer under the confederate authority. The fact was not denied, but he introduced proof that he had acted in the interest of Union men,

and instead of conscripting, he warned them to get away, and the jury acquitted him.

In September, 1865, the district attorney moved his family to Knox County. The duties of his office required him to be at Knoxville almost every day, and for four years he rode six miles per day to his office and back to his home with rare intermissions. The office was no sinecure, but demanded great labor and vigilance—vastly more than has been demanded by its duties since his term of office expired. During his four years of service he had no assistant attorney, nor was an assistant employed during the whole term to aid him, except in one case; that was a suit by the United States against several parties who were connected with the public warehouse belonging to the government at Chattanooga. In that case large interests were involved, and the proof to make out the case had to be drawn from that city. The district attorney employed the now Hon. David M. Key to assist him in working up the case, which he did very efficiently, and the United States paid him \$275, and judgments were obtained against several defendants, aggregating the sum of \$110,000. There was another case from Chattanooga, in which the same honorable gentleman was on the other side. The Congress had made provision for the purchase of grounds in suitable locations near great battle fields for the burial of those Union soldiers who had fallen in battle or died in the service of the United States.

The battles of Chickamauga, Missionary Ridge and Lookout Mountain had left many dead in the vicinity of Chattanooga. A cemetery at that place was necessary. Negotiations for the purchase of a suitable site were opened under the auspices of the quartermaster at that place. It was required by the law that the purchase should be approved and confirmed by the decree of the Federal Court of the District. A contract of the purchase of such ground at such a price came before the court, engineered for the owner by the honorable gentleman aforesaid. The district attorney objected to the price and procured the appointment of a commission to value the land and report the same to the court. This was done, but the district attorney did not regard Chattanooga as the "hub" of the universe, and again objected to the price, and procured an order that the clerk of the court should go to Chattanooga and examine the land, take proof as to its value and report the same. This was done, and the land was bought for \$23,000 less than the price first reported. The fact that the honorable gentleman who manipulated the case for the owner had been a Colonel in the Rebel army was not material—he was acting for his client.

CHAPTER XXVI.

THE number of cases which brought parties to the court, as has been stated, was immense, and the court being held in the court-house of the county, the second story of which furnished a large court room, it was crowded with the multitude so as to endanger human life by the weight on the floor, which was evidently yielding to the pressure—at one time creating a stampede. Realizing the want of safer and more commodious apartments for the court, its officers (who had to rent offices) and crowds of parties and witnesses, the judge and district attorney consulted the marshal, who could find no more suitable place in the city. The judge then requested the district attorney to write a letter to the Hon. Horace Maynard, representative in Congress from the Second District of Tennessee, stating the need of a building suited to the use of the government in East Tennessee, requesting him to ask an appropriation by Congress for that purpose. The district attorney wrote the letter, and made as strong an argument in favor of such appropriation as he could, amongst other points stating that the United States needed such a building in which its separate business should be transacted and its officers quartered, so

that the people might see the government in its civil department as they had seen and felt the power of its military department. Maynard, as ever, attentive to the wants of his people and the nation, asked and obtained from the Congress an appropriation to build the splendid structure now known in the city of Knoxville as the Custom House, a marble monument to the memory of the Hon. Horace Maynard, the peer of the most gifted Southern patriots native born or adopted.

The assassination of President Lincoln sent a thrill of horror through the American heart. That a Rebel confederacy procured it has been fully established, but who were the conspirators beyond those convicted and executed is unknown. It is not probable parties so obscure and without hope of reward would have plotted and in part executed such wholesale slaughter of the head of the government. The initial thought in the mind of the loyal nation was that it was the work of the Confederate authorities in whole or part, and that the first thought upon given facts is the true one may be applicable here. The curtain of time hides the probable truth; when it shall be lifted it will be seen. The utterances of Andrew Johnson in the Senate coupled with the death of the lamented Lincoln created the expectation that upon the accession of Johnson to the Presidency a more stringent policy would be adopted towards the Rebels. He had said treason must be made odious and traitors punished. The district attorney, with

much knowledge of the man and the controlling principle of his life, thought the popular current would float him into that policy. He had been for Breckinridge as the secession candidate in 1860, but on Lincoln's election had taken strong ground for the union, and escaping to Washington had been amongst the most pronounced Unionists in the Senate; now, President, the acme of his aspirations had been reached, except that it was accidental. To float upon this popular current he must be in the same craft with the greatest military leaders and distinguished civilians of the times, and while competition is the life of trade it often ruins the fondest political hopes. Mr. Johnson could not be blamed for the desire to succeed himself in the Presidential office. He was a Southern man, and his political antecedents doubtless had an influence to lead his mind to that line of policy and conduct which separated him from the Republican party and came near costing him his official head. For several years before the war the district attorney had not been a favorite of the great "commoner's," and as he always had favorites who would accept good positions (the attorneyship of East Tennessee being regarded as of that class), the surrender by the incumbent would be acceptable to the President, and furnish a place for one who was for "my policy." A gentleman from Washington came to Knoxville and interviewed the district attorney upon the subject of his surrender of the attorneyship, and in lieu

thereof propose his appointment to the judgeship of the Chattanooga, or Third Circuit of Tennessee, stating that he was authorized to tender this appointment. The district attorney declined the overture. Some time in the last year of Mr. Johnson's term, a warm personal friend of the President called on the district attorney and desired to know whether the attorney approved the policy of his administration? The attorney declined to answer. It was not long until the President sent a name to the Senate to fill the office of district attorney of East Tennessee. The district attorney shortly after received a letter from the Hon. Wm. G. Knowlton, then a member of the Senate, saying: "No new nomination will be confirmed, and when your term expires you will be reappointed if you desire it." Whether Congress ever acted upon Johnson's nomination is not known. The nominee was a Colonel in the Federal army and a worthy man. Johnson had lost his prestige; he had lost his Democratic friends by joining the Republicans in 1861, and his Republican friends by "my policy;" and in spite of great effort to recover, his sun sat in an eclipse. Johnson's policy had run far ahead of any rational anticipation in releasing Rebels from the consequences of their offenses. If it was not the "Sop to Cerberus" it looked much like the "Tub to the whale."

Shortly before the President's official demise the district attorney was instructed to dismiss all prosecution for treason or aid and comfort to Rebels

in the courts of the United States. Whether this was a part of the policy of reconstruction or a blow at the district attorney is not known, or is it material. Obedience to his superior was the attorney's plain duty, and it was done. But the honorable court endeavored to break the force of the blow by the exercise of his just authority, and in each judgment of dismissal taxed the United States with an attorney's fee of ten dollars, and such fees ran up to nearly the sum of \$15,000, not a dollar of which has ever been paid to the attorney. The most irksome duty devolved upon the district attorney was the enforcement of the internal revenue laws. It is impossible to frame laws which may not work harshly in some cases, and one of the main reasons why the district attorney declined a reappointment was the unpleasantness of prosecuting cases under that system. Many parties too poor to pay their expenses to the court, and of course unable to pay fines, brought from the hills and gorges of the mountains many of them loyal during the war and almost starved by it, yet now prosecuted for having made the few gallons of liquid called whisky or brandy, sometimes using a tea-kettle for a boiler and a gun barrel for a worm; and others, one-armed or one-legged, arrested for selling something of the sort from a two-gallon keg to supply means of living, as they stated, not otherwise attainable. The district attorney's heart was too small to hold the government of the United States in one lobe of it,

and those poor, crippled, loyal men in the other, and therefore determined to allow some "great heart" to take his place. He, therefore, informed the gentleman who was appointed his successor of his design to retire, and was assured by him that his name would not be offered if the attorney desired to retain the place.

CHAPTER XXVII.

THERE was no intrinsic difficulty in fact in the reconstruction of the government. The politicians made all the trouble. The status during the war was a conflict between two governments as really as if they had never been under one control; the one a government *de jure*; the other a government *de facto*. While the war continued these governments stood, and the people in the Southern Confederacy were in fact out of the union, but when the war ended the *de facto* government collapsed and the States which had constituted the Confederacy were conquered States and the United States or *de jure* government had full right to prescribe the terms of their restoration precisely as though the territory had belonged to the United States and governments were to be organized upon it. The lawful rights of citizens not forfeited by treason were in tact, as conquest does not destroy private right except for crime, and such stood precisely as in the transition to a territorial or a state government, or extension of authority over a conquered province. Whether the action of the South be called a rebellion, that is an insurrection against lawful authority, or secession, the withdrawal of fellowship with other States, or revolu-

tion, which is a change in state or government, the practical result is the same. It was a passing out and beyond the authority of the United States, and a government had to be overthrown just as in conflicts in which one nation makes conquests of the territory of another, each originally independent. There is no arbiter in war but the sword. It practically abrogates all existing rights between belligerents. There is a clear distinction between insurrection or rebellion and a defacto government. The two first are the mere resistance of the laws of a recognized government; the last is a denial of that government. Allegiance may be rightfully due to one government, but practically yielded to another. At the close of the war the government should have declared each of the States of the Confederacy a territory, and should have established territorial governments in each until such time as the Congress might see fit to allow them to organize State governments. This course would have avoided all those questions which grew out of the attempt to reorganize the States as States and yet apply Congressional legislation to their domestic rights and relations. Theory should be worth nothing in the face of facts. It is not uncommon to find a theory built upon induction and inference from some admitted proposition which ruins and thwarts the plainest facts and the simplest justice. This is illustrated in the theory that all the people of a given State are responsible in a political sense for the acts of that State and

must alike bear the consequences. This results from the unity of the official government which represents the people as the State. Theoretically all the people are liable to the consequences, because in theory all are represented, but every case should stand upon its own facts, and a wise and just government will not punish alike the guilty and the innocent when such innocence can be shown.

The majority of the people in some of the States were Rebels, and in other States, claiming to belong to the Confederacy, a large minority at least were loyal. These loyalists were forced into this practical relation to the revolted States and this theoretical status to the United States. Some of the legislation of Congress recognized the distinction between treason and loyalty in the revolted States. The loyal man may ask and obtain indemnity for the loss of property taken for the use of the armies in the prosecution of the war and damages done by the agents of the government; and the question forces itself upon the mind in this connection, Wherefore does the government refuse to pay loyal men, women and children for their slaves? It may be objected that the cost to the government would be too great. In view of the enormous revenues now collected and much of it thrown away upon sentimental clap-traps, there is not much force, and less grace, in the objection. It may be said property in man can not be recognized. Whence comes this learning? Under the theocracy of the

Jewish nation, and in every nation under the sun at some period of its history, property in man has been recognized by law or custom, and was clearly recognized by the fundamental law of the United States and the legislation of Congress, under which thousands upon thousands of dollars have been invested in slaves by persons who did not approve the principle of slavery; but from the state of society in which they lived were induced to vest money in them, often almost from necessity. But the objection rests upon a false assumption. It is not in the man chiefly that the property exists, it is in his labor. There is no such thing as an absolute right of one person in another; all such rights as exist between persons are relative and governed by the law or custom of the place. To say that I have not the right to the labor of my slave so long as he continues to be my slave is to say that I have no right to the labor of a man whom I hire and pay for a day, or a month, or a year. The law may regulate my treatment of a slave, for the law recognizes him as a human being while it concedes my right to his labor; nor is the argument affected by the consideration that women and children are in the like category. The purchase of a female slave's labor gives the purchaser the right to that labor, and as the labor of the woman must be given to the purchaser her labor cannot be bestowed upon her children, except by consent of the purchaser; therefore, the law of the land does interpose and for the material

benefit of the purchaser and such children who otherwise would become a public charge recognizes the right of the purchaser to the labor of the children in consideration of the expense incurred in raising them. This relation is the subject of contract and law in civilized States, and so long as the law recognizes the relation, so long does the right exist. Under the law the question is not how slavery was introduced; that belongs to another time and other parties. The ethical aspect presented in it has no legal relation to the established institution more than the right of a prince to rule a nation whose great grandfather obtained the crown by parricide, fratricide or conquest. It is argued the natural relation of mother and child fixes the status of the child in that of the mother, so far as blood is concerned. This is true; but when the child is born it becomes a distinct being, and though a wise Providence has given the mother the affection for the child necessary to its nature, yet the right is relative, as those of the mother and master, and must be regulated by law or custom; therefore, as before stated, the right to the labor of the child springs from an implied contract between the State and purchaser or master; that such labor shall belong to him in consideration of nurture in infancy and necessary support in mature life. If the loyal Southern men had lawful property in slave labor, upon what principle of justice can the government of the United States (which, by its direct act, deprived

him of that labor) refuse to give him compensation for such loss?

In 1855, on his return from Washington through Virginia, a family of slaves had been bought with the money which belonged to the lawyer's family; these slaves, with some of his own, were left with his family in February, 1865, at which time the number had been considerably increased and were very valuable at the beginning of the war. In June, 1865, the lawyer called them up and told them they were free, and at this day the most of them are settled in homes of their own in the place where they were set at liberty. Shall the innocent and loyal family be told that they are to be treated worse than the worst Rebels who got back their large landed estates and personal property by taking the oath that they would behave themselves better than they had done, while the loyal family, which needed no amnesty, must lose its property, if slaves? Is this policy the outgrowth of liberty or licentiousness? Is this our boasted republicanism or is it despotism? This is no vindication of slavery or apology for it. As it existed in many parts of the South, it was a vile institution and was rightfully stamped out; but moral character is one thing and legal right is another and different thing. Many anti-slavery men in the South were slaveholders; such was the state of society that a helpless family could not obtain permanent help suitable to its wants and the purchase of such help was necessary. Such persons

were not responsible for the state of society or the existence of slavery, which was the main factor in the formation of such society born in the slave States, inheriting such property from their ancestry, and growing up under the influences of the institution, the habits of life formed by it. Anti-slavery men acquiesced in this state of things because they could not remedy it; they were units out of the great mass of the slaveocracy, and if combined, would have been as chaff before the wind. There were few loyal slave-holding families in East Tennessee; very few who had so large a stock of slave property as the lawyer's family, and the very paucity of the number is doubtless one main reason why no more attention has been given to the subject of their compensation; a good reason why attention should be given to it. The act of Congress of the 17th of July, declared the forfeiture of all the slave property belonging to persistent Rebels and the abolition of slavery was a needful and proper measure to secure the future peace and prosperity of the country; and as the Rebels made such abolition necessary to pay loyal men for their slaves, would add a sanction to the measure, intensifying the difference between treason and loyalty.

CHAPTER XXVIII.

THE lawyer's term of office expired in March, 1869. The Federal Courts met in January of that year, because of the change in the times of holding these courts from May and November to January and July. No court had been held in November, 1868; as a consequence, the business, which should have been transacted in that November, 1868, was carried over to the January term, 1869. At the last term of the attorney's official service, the business which was dispatched was immense, and the courts did not close until March; it was at this term that the fees of the attorney ran up to \$15,000. The court and a great majority of the members of the bar, thought the attorney ought to be allowed to retain all the emoluments of his entire term; therefore, at the close of the term, the late Hon. Thomas A. R. Nelson voiced the sentiment of the bar and the court, (with two or three exceptions) in a memorial to Congress, asking that most august body to allow the attorney to retain all his earnings during his whole term of office. Here is the copy of the memorial:

To the Honorable Senate and House of Representatives of the United States of America, now in Congress assembled :

The memorial of——, a citizen of Knox County, in the State of Tennessee, respectfully represents that on the 11th day of March, 1865, he was duly commissioned as district attorney of the United States, for the eastern district of Tennessee, and held the office until the 11th day of March, 1869, when he considers that his term of office expired, and since which time he has not felt authorized to assume or discharge the duties of said office.

Your memorialist represents that during his term of service the duties of his office were far more complicated and laborious than had been previously performed by any district attorney in the State. During the late civil war, a large majority of the people of East Tennessee remained loyal to the government of the United States, and the jurors impaneled in the Circuit and District Courts were generally loyal men, and having been selected from most of the counties in East Tennessee, their knowlege, as to the state of affairs existing during the war, was quite extensive, and in consequence of this, a larger number of presentments and indictments was made than had ever been made in the same length of time or even in a succession of years in the judicial history of the State. More than six hundred presentments and indictments had been sent by the predecessor

of your memorialist, and including the number sent by him, the aggregate number of presentments and indictments was more than two thousand one hundred, and the number of informations in confiscation cases reached the aggregate of four hundred.

Your memorialist attended to these cases in his own proper person and without calling upon the government of the United States to incur the expense of an assistant. As a consequence of the vast amount of business done in the courts, the fees and emoluments allowed to your memorialist exceeded the sum of six thousand dollars, per provided for in the act approved 26th of February, 1854, (10 Statues at Large, 165,) (Brightley's Dig., 277, 278.) In view of the laborious service rendered by your memorialist, and the extraordinary and unparalleled increase of business; in view of the fact that it was performed without any authorized assistant, and more especially in view of the facts that, owing to the depreciation in the currency, and the large increase of taxes and the expenses of living, the maximum of six thousand dollars contemplated by the act of 1853 has not been paid in the currency contemplated by that act, and that your memorialist has not, in point of fact, received the amount intended. Your memorialist respectfully prays your honorable body to enact a statute, authorizing him to retain all the fees and emoluments which have accrued during his term of service, or if the same or any

part thereof has been paid into the Treasury to authorize the same to be paid over to him, and as in duty bound your memorialist will ever pray.

The undersigned, being the presiding judge and a portion of the members of the bar, practicing in the Circuit and District Courts of the United States, at Knoxville, Tennessee, respectfully state that from our knowledge of the facts, we think the prayers of the foregoing memorial should be granted.

MARCH 16, 1869.

Connelly F. Trigg, United States District Judge.
Thomas A. R. Nelson.

M. L. Hall, Clerk United States Court.

John H. Crozier.

Sam. T. Logan.

James R. Cocke.

J. H. Crozier, Jr.

W. A. Henderson.

Jos. M. Logan.

D. D. Anderson.

E. W. Crozier.

Jas. L. Abernathy.

T. R. Cornick.

O. P. Temple.

W. P. Washburn.

From the general terms of this paper, it might be inferred that the attorney did not claim the whole amount of confiscation allowances, but no question had been started as to his right to these allowances. The main reason for the me-

morial was that nearly the whole number of cases disposed of at the January term, 1869, were other than confiscation cases, and the rule of July 17th, 1862, as to confiscation cases, would not apply, and as there were vastly more of them than would make up the six thousand per annum, under the act of the 26th of February, 1853, the action of Congress was needful to authorize the attorney to collect and retain the excess, for most of the fees thus allowed by the court in the January term, 1869, were taxed against the United States under the direction of Johnson's administration. The volume of business done at that January term, 1869, was so great the courts held open to near the close of the attorney's official term, so that it was impossible to get up the report of all the cases in which action had been taken at that term, together with the emolument returns, before the attorney's term expired.

It will be remembered that the accounts of the attorney, which should have been settled every half year, at the department at Washington, upon his reports and emolument returns, which were all regularly made during the years 1865, 1866, 1867, 1868, had not been, nor has one of them been settled; the material for such settlement being in the hands of the officers at the Interior and Treasury Departments. The law requires such settlement to be made every half year, at the Department of the Interior, and the Secretary of the Interior was required to notify the attorney of any

excess over his personal compensation and office expenses shown by the account, and to require him to pay such excess into a public repository of United States funds ; this was not done during the attorney's whole term.

The memorial was sent to the Hon. Horace Maynard, then in Congress, who offered it in the House of Representatives, and it was referred to the Judicial Committee of that House and referred again and again to the same Committee, where it has been pending for fourteen years and never acted on. At the close of the courts in March, 1869, the attorney employed Henry M. Aiken, Esq., afterwards clerk of the United States Circuit Court of said district, to make from the records of the court accounts showing the amounts due the attorney in each court and in the various classes of business, which he executed faithfully. These accounts, six in number, were certified by the clerk of the court to be correct. These showed, first, the cases disposed of at the January term, 1869, in which fees were allowed the attorney taxed against the United States ; second, the class of fees for which the United States were liable, but had not been received by the attorney, such as acquittals by jury trial, *nolle prosequis*, dismissals, abatements and insolvencies. These transcripts, together with the report and emolument returns, made every six months, showed every case in the courts in which the United States was a party during the attorney's official service, and therefore all

that was necessary to settle his whole account. Thus the matter stood from March, 1869, until May, 1870. The attorney heard nothing of his account from Washington, and went in May to that famous place to close up his account. The memorial to Congress had not been acted on, but the lawyer thought and still thinks the United States largely indebted to him, whether the prayer of the memorial shall be granted or not.

Reaching Washington in May, 1870, he repaired to the Treasury Department, that greatest centre of attraction, and not being able to reach the head centre except by long lines of red tape, he interviewed some of the subalterns. A Mr. Smith, a very clever clerk, introduced the lawyer into that portion of the establishment, where every man's grist must be first ground, called the comptroller's office. To the persons in charge, the lawyer presented a respectful request for a statement of his account in view of settlement. In the course of the colloquy which followed, the lawyer was told for the first time, he must account for confiscation allowances. He denied his obligation to do so, and cited the eighth section of the act of 17th of July, 1862, to which it was answered that the act of the 27th of June, 1864, had changed the law. The lawyer had never heard of this act and promised to examine it; he did so and was perfectly satisfied that Congress did not intend, by that act, to touch the subject of confiscation in the insurrecting districts; and, under the impression

that the department had put a false construction upon this act (which he believes now as fully as then), he refused to settle upon any such basis. The lawyer consulted the district attorney for the District of Columbia as to the act of the 27th of June, 1864, and his action under it. That officer was assuredly under its operation, if construed to apply to confiscation. The attorney stated that he had not reported his confiscation cases, though the department had notified him to do so, and if the department thought he was bound to report, the courts were open. The Interior Department continued to be interior, as nothing further appeared upon the surface. The ground taken by the attorney was that the act of the 27th of June, 1864, did not touch the eighth section of the act of the 17th of July, 1862. If this view of the law was correct, and the Government seemed to be afraid to test it, as no step was taken against the attorney, the lawyer was better satisfied that it did not apply to insurrectionary districts.

While in Washington, on that occasion, the lawyer was invited to dine with the Hon. Return J. Meigs, then clerk of the Supreme Court of the District of Columbia, an honorable, learned and worthy man from Tennessee, and against whom it is believed Trumbull and Otto tried the act of the 27th of June, 1864, aforesaid. To put the matter to a practical test the lawyer procured the clerk, Mr. Smith, to make out an account against the United States from some of the transcripts which

was presented at the comptroller's office. The account was rejected because it did not cover the attorney's whole claim, and yet, as will be seen hereafter, the same office which rejected said account on that ground, actually made out an account against the lawyer covering only three years of his term, of while more will be said hereafter. In the lawyer's last interview in the comptroller's office, there being a radical difference of opinion as to the basis and mode of settlement, it was agreed to wait the action of Congress upon the lawyer's memorial, and the officer gave some counsel as to the form of the act or resolution to be passed upon memorials to avoid future misunderstandings, which were communicated to Mr. Maynard, who drew up a form in accordance to such instruction, and the lawyer left Washington with the loss of two hundred dollars of expenses.

CHAPTER XXIII.

MR. MAYNARD thought the prayer of the memorial should be granted, and did what was proper in his circumstances to procure action upon it by the Congress, for he recognized a clear distinction between a Congressman and a claim agent. As the lawyer while district attorney had received nothing from the Treasury except his salary and per diem, in the aggregate reaching the sum of some two thousand dollars, having waited for his fees until collected from departments and paid over by the clerk by order of the court, thus saving the government the payment of his main compensation; and endorsed as the memorial was he could not doubt that its prayer would be granted. Thus the matter stood from May, 1870, to March, 1876, nearly six years. About the latter period some severe criticisms were made in Congress of the management of the Treasury Department under the rule of General Bristow, which seemed to quicken the pulse of the comptroller, and in that month of March, 1876, that officer sent the lawyer, without any previous notice, the following accounts:

| | |
|------------------------------------------|--------------------|
| To amount of official emoluments carried | Dr. |
| in the following years:— | |
| March 28 to June 30, 1865, . . . | \$1,876 89 |
| July 1 to December 31, 1865, . . . | 4,471 00 |
| | <u>\$6,367 82</u> |
| January 1 to June 30, 1866, . . . | 6,892 50 |
| July 1 to December 31, 1866, . . . | 410 00 |
| | <u>\$7,302 50</u> |
| January 1 to June 30, 1867, . . . | 9,797 25 |
| July 1 to December 31, 1867, . . . | 745 00 |
| | <u>\$10,542 25</u> |
| Dollars, | 24,212 64 |
| By amount of compensation and expenses | |
| in the following years:— | Cr. |
| Personal compensation March 28 to De- | |
| cember 31, 1865, | \$4,586 30 |
| Office expenses, same period, . . . | 119 90 |
| | <u>\$4,706 20</u> |
| Personal compensation, 1866, . . . | \$6,000 00 |
| Office expenses, | 254 50 |
| | <u>\$6,254 50</u> |
| Personal compensation, 1867, . . . | \$6 000 00 |
| Office expenses, | 154 00 |
| | <u>\$6,154 00</u> |
| Balance due the United States, . . | \$7,097 94 |
| Dollars, | 24 212 64 |

Will any one wonder that the lawyer was both surprised and indignant upon the receipt of this account, accompanied with a demand that this alleged balance be paid into a public depository? He made no reply to it except to state that his memorial to Congress had not been acted on, and this he did because he regarded this proceeding as a breach of the agreement before referred to and an outrage upon his rights. An inspection of this account shows that less than three years of his whole term was embraced in it, and from his

emoluments, returns and accounts filed in the department and full notice of his claim, was grossly wrong. In this account presented were included eight thousand dollars of confiscation allowances, which really belonged to the attorney, and by this account the department attempted to compel him to pay into the Treasury of the United States money that belonged to himself. Under the conviction that the court would hold that the attorney had the right to these allowances, because the same judge who made them to the attorney and who had throughout his term held that they belonged to the attorney, would try the cause, the lawyer's apprehension of trouble from it was not serious. Within a few weeks George Andrews, Esq., was instructed to sue, which he did with reasonable dispatch. In the meantime, the lawyer had heard nothing more from Washington. The action was for excess of emoluments. The lawyer filed the plea of non-assumpset. Quite a correspondence subsequently occurred between the lawyer and the officers at Washington, but no modification or change of the account could be procured. The trial came on—the same judge presiding. The case turned upon the construction of the act of the 27th of June, 1864, aforesaid, and such was the eloquence, the skillful argument and persuasiveness of the district attorney—George Andrews, Esq.—and his assistant, H. H. Pettybone, Esq., against the long and impatient argument of the defendant, the lawyer (who attended to his own

case), that the honorable judge's views became confused, and charged the jury against the defendant, taking care, however, to state that he had told the lawyer during his term that he was entitled to retain those confiscation allowances; that he had never seen the act of the 27th of June, 1864; that he regarded its interpretation as difficult, but would hold for the government, and that the defendant should take it to the Supreme Court of the United States, for there it ought to go.

Many collateral points were made in the progress of the trial, which will be more fully given hereafter. The jury returned a verdict against the defendant upon the account. The lawyer entered a rule for a new trial which was continued for several terms.

CHAPTER XXX.

IN the meantime, the lawyer wrote a letter to a member in Congress from his district as follows:

DECEMBER 20, 1879.

DEAR SIR: I regret I could not see and converse with you freely in regard to my embroglio with the United States. I desire you to understand the case upon its merits. You are not aware, perhaps, that I have held the office of United States Attorney for this district twice; first under President Tyler, second under President Lincoln. My last appointment was in March, 1865, before the close of the Rebellion. I held the place until Major Crump's appointment in the spring of 1869, and was assured by Senator Brownlow of my reappointment if I desired or would accept it. No complaint was ever made (so far as I know) of my administration, although, as you know, I had an enormous pressure of business upon me, in all which time—from March, 1865, to the end of my service—I had no assistant, except in the solitary case of the United States vs. Harris and others, known as the Chattanooga Warehouse case, in which I procured Judge Key, the Hon. P. M. G., and in which we obtained

judgments against three parties for the aggregate sum of \$110,000.

In my first services under President Tyler (in the year 1841), the marshal of the district paid my per diem and the Treasury Department my salary; fees earned collected from the defendant when possible and paid out of the registry of the court. The act of February 26, 1863, regulating fees, etc., and limiting the compensation to \$6,000 per annum contains no direction as to how these fees are to be received—whether according to the mode of 1841 or directly from the Treasury. I had no special instructions upon this point, and in my last service acted upon the rule of 1841, consequently received nothing from the Treasury during my term save my salary and per diem during the last service. All the money received by me in 1865 to 1869 inclusive was collected from defendants, except \$100 sent me by Captain Whiteman in the Chattanooga cemetery case, in which I saved the United States \$25,000, as Judge Key knows. The Treasury Department made no requisition upon me to make annual settlements other than the semi-annual emolument returns, which I made regularly, embracing every class and item of fees and allowances. This failure to make annual settlements has been the cause of all my trouble with the government, because such settlements the first year would have shown what I was allowed to retain as my compensation; for the act of the 17th of July, 1862, entitled “An

act to suppress rebellion, punish treason and confiscate the property of rebels, by the terms of the eighth section," authorized the District Courts to allow the officers of the courts such compensation as such courts might deem proper without limitation otherwise; and the Attorney General, Edward Bates, in his circular letter addressed to such officers on the 8th of January, 1863, instructing them as to the mode of proceeding and their duties under such said act, stated that it was a *new class* of business, and Congress had seen proper to submit their compensation to the discretion of the courts. There were about four hundred confiscation cases under my charge and the allowances ran up to between nine and ten thousand dollars in them under the act aforesaid and the letter of the Attorney General, I supposed, and the courts supposed, I was entitled to retain all these allowances, for the act of the 27th of June, 1864, to regulate the fees of the officers of the Supreme Court of the District of Columbia and other purposes was utterly unknown to myself and the court, and the question of law presented in the case against me is, Does the second section of the act of 27th of July, 1864, aforesaid, repeal the eighth section of the act of 17th of July, 1862, aforesaid? It is not pretended that the second section of the act of 27th of June, 1864, repeals such eighth section of the act of 1862, in terms, but that the act of 1864, aforesaid, limits the compensation under the act of 1862 to \$6,000, the

maximum under the act of 1853. I insist that act of 1864 applies to the District of Columbia alone; but whether right or wrong in this, of which there may be doubt, the government allowed me to take and use these confiscation allowances for the whole of my term as my own (and for more than a year after my term expired), and until I had transcripts made from the records of the courts showing that my total earnings for the four years of my service amounted to \$40,741 (forty thousand, seven hundred and forty-one dollars), and that I had received about \$18,100, and about \$8,000 of which were confiscation allowances; and going to Washington in May, 1870, no account having been presented of my status with the United States by the department to settle with the government, was for the first time met by the Comptroller with the demand for my confiscation allowances under the act of 26th of February, 1863, and was referred to the second section of the act of 27th of June, 1864, aforesaid, which was the first intimation I ever had of the act as in any wise applicable to my account. If the department had settled my account annually this demand would have been made at the close of my first year, and a construction of the act aforesaid would have followed and I would not have been left in the dark (if I was in the dark) about how much I should retain. It was no fault of mine that these settlements were not made. I made all the reports and returns except the frac-

tion of the year of 1869, required by the law and the department, including my confiscation allowances. These last were reported *not* to be settled at the department as to my right to them, but because I was required to report the suits brought and how they were disposed of, I thought it my duty to state how these confiscation cases resulted, as in event of condemnation the property would belong to the United States, and if a sale followed yielding more than the costs and allowances, the surplus was to be used by the United States for suppressing the Rebellion. The United States had a right to know all about these cases. Having made due returns to the department of my official business, it was the duty of the department to make annual settlement of my account and to furnish me a copy; by failing to do this (if the act of 1864 be against me) I was entrapped into this present embroglio and trouble.

In the year 1868 an act passed changing the time of holding the courts in this district from May and November to January and July; as a consequence there was no November term of the courts in 1868, and the large business I had ready for the November term of 1868 was carried over to the January term of 1869. At this last term an immense amount of business was done, and my fees and allowances at that term ran to over \$14,000. At the close of the term (my four years being nearly out), Judge Thomas A. R. Nelson, deceased, drew the memorial to Congress which

is now before the Judicial Committee, signed, as you see, by the Judge and officers and a large majority of the members of the bar, and presented to Congress by the Hon. Horace Maynard in 1869. This memorial was intended to cover these fees and allowances at the January term of 1869, as a small part of them were confiscation cases and they were dismissed by order of the Attorney General Speed. This memorial was before the Judicial Committee when I went to Washington in May, 1870, and as I did not believe (nor do I yet believe) that Congress intended the second section of the act of 1864, aforesaid, to apply to the district which had been recovered from the Rebels (the war still going on) or indeed to any but that of the District of Columbia, for I had learned the history of the act of 1864, aforesaid, and its objects from the clerk of the Supreme Court and the district attorney for the District of Columbia, I refused to settle with the comptroller on his basis, aforesaid. I understood it then to be agreed that my account should remain open until Congress acted upon my memorial; and Mr. McDonald, of the comptroller's Office, with whom I communicated upon the point, suggested some special points to be inserted in the act or resolution upon my memorial. Thus the matter rested from May, 1870, until March, 1876, or about the time when the Democrats began to threaten Secretary Bristow's department, when I was informed by the comptroller (not McDonald) that

my account had been made out for three years of my term and a balance struck against me of \$7,100, and that I *must* pay it over to the proper depository. This was the first that I had heard of my account as made out, and that for three years. Surprised, I wrote to the comptroller that Congress had not acted upon my memorial, and it was still before the Judicial Committee of the House.

Without any reply to my letter the account was immediately sent to the district attorney, Andrews, and suit at once brought against me. Observe, suit for three years only, including in the account my confiscation allowances which amounted to more than \$8,000, nearly \$1,000 more than was claimed to be due the United States, and utterly ignoring the years 1868-9 of about \$15,000. It is attempted to excuse this partial settlement of my account at the department, by saying that I made no emolument return in 1869. To this I reply that I have made all my emolument returns for the years 1865, 1866, 1867, 1868; my term expired in March, 1869. At the January term, 1869, the business was so voluminous that I could not make such emolument returns before my term expired, but I procured H. M. Aiken, Esq., to make six transcripts from the records of the courts, showing all the unreported business and earnings to the close of my term, for which I paid him \$100, which transcripts I took to Washington in May, 1870, to settle as aforesaid, and these transcripts are now in the comptroller's office at Wash-

ington. Instead of calling upon me for these transcripts, two of which were in the comptroller's office when the account was made out for three years, but not noticed in the account, the same was sent to the district attorney without giving me any chance to present my account to the department and when the suit was tried, the fact that my account had not been presented at the department was held to exclude my account, and judgment was taken upon the account for three years, as made by the department. Observe, after the suit was brought, I had applied to the department to have my account corrected, and sent back to Washington four of the transcripts (two being there already), which transcripts showed the actual facts from the records and all that was really needful to show the account unjust outside of the confiscation allowances, but I was informed no notice could be taken of these transcripts, though properly certified as copies from the records by the clerk and judge with the seal of the court. I then revised the records and made out an emolument return for the including fraction of the year, 1869, and an account from the Circuit Court and one from the District Court and sent them to the comptroller, but the answer was through the district attorney that I did not seem to understand what was required, and the matter was left in the hands of the honorable attorney, but the judgment had been taken before this emolument return and these last accounts were sent. The transcripts

and an account, substantially like the last, with small variations, had been sent before judgment was taken. Upon the return of the verdict of the jury, I entered a motion for a new trial, and the case now stands upon this motion. I claim in law and equity:

1. That I am entitled to retain all the allowances made me by the court in confiscation cases.

2. That I had not received the amount charged against me in the account sued on, as aforesaid.

3. That I am entitled to large credits for the years 1868-9, which are not noticed in the account sued on, as that only covers three years.

4. That I have an equitable claim to \$6,000, which I would have earned if the change had not been made in the time of holding the courts in 1868, by which I lost one term and caused the large accumulation of business over to the January term, 1869.

What is the gravamen of this whole thing? See, my gross emoluments for four years was the sum of \$40,741; of this sum, as I understand the account from the records of the courts, I have received \$18,172, or about that, of which last sum about \$8,000 are confiscation allowances under the act of July 17, 1862, aforesaid. If I am entitled to retain this last sum, as I believe I am (and as the court which allowed them thought I was, during my whole term), then my receipts under the act of 1853 would be less than half the maximum allowed by that act, but if I am obliged to account

for these confiscation allowances under the act of 1853, then I have not received as much by several thousand dollars as the act of 1853 allowed me to retain for the four years of my service. How then does the comptroller bring me in debt \$7,000? Thus he charges me with emoluments reported for 1865, 1866, 1867, \$24,000, and says I must go behind or before—at all events outside of—my emolument returns, and prove the negative that I not only did not receive them, but I must prove the reason I did not receive them, and after the lapse of six years from the close of my term, I am required, if I understand what the comptroller requires (which by the way he seems to think I do not), to report anew every case in which I have not received the fees or allowances, and the reason why my emolument returns for 1865, 1866, 1867, 1868, show all the monies received by me during these years, and that for the fraction of the year 1869, shows those received by me in that fraction; but while the comptroller uses these returns to charge me, he does not allow them to discharge me, though made under oath. But, suppose I had received the \$24,000, it would have been no more than I was allowed to retain as compensation under the act of 1853. If I am required to pay back \$7,000 of it, it would leave me \$17,000 as my own, out of \$40,000 earned; but suppose I have received only \$18,000, and must pay back \$7,000, this would leave me \$11,000, as my compensation for earning \$40,000; suppose I am en-

titled to my confiscation allowances under the law, but the comptroller refuses to allow me to retain them, and I am forced to pay back the \$7,000, \$8,000 and \$7,000 would be \$15,000 out of the \$24,000, a total loss, to say nothing of \$16,000 earned in 1868-9 and not received.

I have made this lengthy statement that you may understand the true nature of the case. I have not given arithmetical exactness in the various sums stated, but only substantial accuracy.

I desire that Congress shall do one of two things at the present session, viz.:

1. Grant the prayer of my memorial, or,
2. Pass an act or resolution, allowing me to take an appeal to the Supreme Court of the United States (if a new trial is refused, or a judgment fine shall be taken against me) without security; I am unable to give security. The judge who tried the case last January said it ought to go to the Supreme Court. I think you will be of the same opinion.

Respectfully,

The lawyer wrote repeatedly to the comptroller and the Secretary of Treasury, but found no favor from those officials. He then employed an attorney, to whom the comptroller shortly wrote that the judgment might be credited with the sum of \$1,742.00, if the lawyer would swear that it could not be collected. This was not done. Indeed, no opportunity was offered the lawyer to make such an affidavit, if he had been willing to

do so, which, however, he would not have done, because the demand was unreasonable and simply absurd upon its face. The lawyer, as district attorney, never was bound to do more than to see that executions were issued to the marshal and property returned. It was the marshal's business to know whether the same could be collected or not. The sitting Congressman had been joking about the administration of Attorney Andrews, who retired from that position and was succeeded by one Wheeler; the said Andrews only giving him aid and comfort. The letter from the comptroller, in relation to the credit aforesaid, reached the lawyer's attorney through this new attorney Wheeler. The term of the court in which the rule for a new trial was to be disposed of arrived, then the case would be taken up and the next Friday was set, of which the lawyer informed his attorney; on that Friday the lawyer again attended and interviewed the new attorney, also Attorney Andrews, and the next Monday was set. The lawyer attended prepared to argue the case, but the court being otherwise occupied, could not take it up. The lawyer living three miles in the country, and being over seventy years of age, requested his attorney to watch the case and notify him of the time it would be taken up, as he intended to make an argument himself. Toward the close of the week and hearing nothing from the case, he again went to the court and inquired of his attorney in relation to the case. He informed him nothing

had been done. Immediately after the noon recess, the lawyer having some business in the Supreme Court Clerk's Office, requested his attorney to go up to the Federal Court and apply to the court to know what time the case would be called and to fix a day that the lawyer might attend; and his attorney went, and in open court and in the presence of the district attorney told the court that the lawyer was ready for the case and wanted to know when it would be taken up, to which the court replied: It would not be called again unless especially pressed by the district attorney. The district attorney making no response, the lawyer's attorney supposed it would go over to the next term and reported to the lawyer. A month or less afterward, the lawyer was utterly astonished by receipt of a letter from the marshal, informing him that he had an execution against him upon the judgment in favor of the United States. The lawyer immediately repaired to the city and found it true. The lawyer's attorney was at that time at a neighboring court and wrote to the lawyer the following letter:

RUTLEDGE, December 28, 1880.

DEAR SIR:

Your letter was forwarded here; the condition of the case was exactly as I told you at my last connexion with it.

I afterwards heard that Judge Key came up on some adjourned day for the purpose of signing the record, when Wheeler pressed the case and

judgment was pronounced without argument or knowledge on my part. I had before notified the judge in open court and in the presence of Wheeler that we were ready for trial at any time, only I wanted you present at the hearing. I don't know what else we can do. The thing is unjust.

Yours respectfully,

WM. A. HENDERSON.

On return of Wm. Henderson from Rutledge, the lawyer called upon and received confirmation of the facts already stated, and that when the court informed him that the case would not be called again (as before stated), and that the judge had left Knoxville for Chattanooga, the attorney supposed that the term was practically close and that the judge would only return to sign the minutes. When he did return and Wheeler pressed the case, notwithstanding the judge knew that the lawyer and attorney were ready to hear the cause and that neither of them were present or were informed of the present proceeding, the rule was discharged and the judgment left intact. The lawyer took no further notice of this judgment because he had been cut off by his want of knowledge of the proceeding, the time having elapsed and because he was utterly unwilling to submit anything further to the same court.

CHAPTER XXXI.

It will be seen from the foregoing statement that the lawyer had no opportunity to present his printed arguments upon the rule for a new trial, and here offers it for the information of the court and country :

| | | |
|---------------|---|---------------------------------------------------|
| United States | } | Action on the case, etc. Briefs for Defendant. |
| vs. | | |

There are several counts in the declaration, to which the plea of *non assumpsit* has been filed. The demand for emoluments of the office of United States Attorney for East Tennessee, said to be improperly retained by defendant of about \$7,000.

The defense rests, first, Upon the ground that there is no law which requires the defendant to account for allowances made to him by the District Court in confiscation cases under the eighth section of the act of the 17th of July, 1862, entitled: "An act to suppress insurrection, punish treason and rebellion, and confiscate the property of Rebels," (see Statutes at Large, 12th vol., page 591), and that more than \$8,000 of the \$24,000 account sued on, are such allowances which show the account to be erroneous. Second, If there be such law, then the account is erroneous because it

embraces only three years of defendant's term, whereas, defendant served four years and no account was made out until nearly seven years after the expiration of defendant's term, and the large earnings of the fourth year were ignored. Third, Defendant is entitled to large credits for fees taxed against the United States, and defendant, respectively, in several classes of cases disposed of in the years of 1865-6-7, viz., acquittals by July trials, *not prosequis*, dismissals, insolvencies and abatements of which no notice was taken in making up the account sued on. Fourth, The United States have charged in the account sued on, all the earnings of defendant in the years 1865-6-7, as though received by him on the evidence of his emolument returns, yet those emolument returns show the defendant did not receive more than \$17,684, \$6,378 less than the account sued on. Thus these emolument returns are made to charge, but not to discharge defendant. There are some other matters which incidentally fall into the argument.

The first question is: What is the law governing the accountability of officers of the courts in confiscation cases under the sixth, seventh and eighth section of the act of 17th of July, 1862, above stated? That act was construed on the 8th of January, 1863, by Hon. Edward Bates, at that date Attorney General, in a circular letter to district attorneys and marshals, relating to proceedings under the act of Congress for confiscation aforesaid (see certified copy of circular here shown).

The authority conferred upon the courts to allow compensation to officers at discretion, implied the right of such officers to retain such allowances, no scale of fees having been provided for this new class of business. This discretionary power of the courts was doubtlessly given to stimulate such officers to the greatest diligence and activity in co-operating with the military power to suppress the insurrection. This law was to be executed chiefly in the districts in Rebellion, such proceedings following close upon military occupation with riots and responsibilities to the officers peculiar to the condition of such districts, made it eminently proper to leave to the sound discretion of the courts, the whole subject of official recompense. To seize Rebels' property and thereby deprive them of the means of protracting the war, was the purpose of Congress. Treason has always been punishable by process in the Circuit Courts, but this Rebellion, so gigantic in its proportions, involving fifteen States, demanded extraordinary measures for its suppression. Forfeitures and penalties were by the act of Congress superadded, which could only be enforced in the district where the offenses were committed, or property found, and only in the District Courts by proceedings analogous to admiralty, or revenue cases, or proceeding *in rem*. The objects of the law were well understood by the honorable Attorney General Bates and district attorneys and marshals would, from the law itself and the circular letter aforesaid, un-

derstand that the allowances made by the courts were independent acts of said courts, acting at their discretion and limited by no legal rules as to maximum or minimum compensation. The special circumstances of each case, known by judicial investigation in the extraordinary condition of the country, no other tribunal or authority could so justly determine what each officer should have in the particular case. The circumstances under which a law is passed have direct relation to the intention of the law-maker and the meaning of the law. The act of February 26th, 1853, was passed at a time of profound peace, and breaches of national laws were comparatively rare, and the necessities of life cheap. The business in the districts with few exceptions was small, and few cases presented any special novelties. The enforcement of penalties and forfeitures against and in the midst of populations only restrained from violence and bloodshed by military force were wholly unknown. Under these circumstances the act of February 26th, 1853, was passed, by which compensation to district attorney and marshals was limited \$6,000 per annum, to enable each officer to know how much he could retain of his earnings and the court to know how much each officer should have in each case; the legislature fixed a scale of fees sliding upward in no case beyond fifty dollars. Here were mile-marks and finger-boards by which the courts and officers were to shape their course. Contrast this act of 1853 and its attendant circum-

stances with the act of 1862, of Congress, and its surroundings and all sufficient reasons appear for the interpretation of the act of the 17th July, 1862, by Attorney General Bates, as shown in his circular aforesaid. (A word or two here *auguendo* of defendant's personal experience bearing on this point.) One month previous to defendant's appointment by President Lincoln, on his way to Knoxville, under the protection of a woman of Rebel sympathies, defendant was arrested, searched and his horse taken from him by Rebel soldiers. Two months after defendant's appointment he was obliged to depend upon military protection to return to Rogersville, in Hawkins County, to see his family which had been left behind in defendant's escape. The courts will take judicial knowledge of the war of the Rebellion and the condition of the country at the close. The public mind fevered by contending passions, some raging, some trembling with fear, life cheap, living costly beyond precedent in the insurrectionary districts, courts crowded almost to suffocation, money depreciated to half its normal value; the courts and officers would not doubt the correctness of Attorney General Bates' construction of the law. It has been observed that no scale of fees or rule of compensation to officers of the courts was fixed by the act of 1862, other than the sound discretion of the courts, and there were reasons operating on the mind of Congress to remove restrictions upon the powers of the courts in allowing com-

pensation to their officers, leaving it to the court's discretion. Surely the reason would exist to take off the restriction upon the officers as to the amount they might retain, but accountability for confiscation allowances under the act of 1862, aforesaid, is denied upon another ground. Such allowances were not drawn from the Treasury and never were the property of the United States. The statute aforesaid, section 7th, 1862, provided, when the property seized, was condemned, it should become the property of the United States, and if not condemned, how did it stand? (See the United States vs. Kline, Wallace Rept. p.) As it was not forfeited it remained the property of the original owner. What claim had the U. S. on it? None; unless under technical rule in admiralty there was probable cause for the seizure. The court declares there was probable cause and under the power conferred by the eighth section of said act of 1862, allows such fees and charges of their officers as shall be reasonable and proper in the premises. Here express power is given to the courts not to adjudge costs generally, but to allow such fees and charges of these officers, etc. (The very words of the law manifestly exclude the idea of a maximum or minimum annual compensation.) In the event of condemnation, it being a proceeding *en rem*, the property was forfeited and became the property of the United States and as such, under the seventh section of said act of '62, it was to be sold and the proceeds

paid into the Treasury of the United States, but if not condemned, then the act contemplated that the officers who had incurred expense, labor and risk, should be paid out of the property seized, upon proof of probable cause of seizure. Congress looked at the proceeding *en rem* and made it analogous to admiralty cases that if not condemned and forfeited, if probable cause were proven, the thing seized should be held until the officers were paid, therefore, no provision was made for the payment of such officers when the property was not forfeited, condemned and no probable cause was shown. This shows the great responsibility cast upon district attorneys whose compensation manifestly depended upon condemnation or probable cause, there being no law for the payment of such fees and charges by the United States in the event of no condemnation, or probable cause, and the lien upon the thing seized existed only for the benefit of the officers upon the probable cause; under the act aforesaid the United States had no real interest in the subject. The mere form of enforcing the lien by the court does not alter the case. Upon the former trial of this cause, this construction of the act of 17th of July, 1862, by Attorney General Bates, was not denied, but it was insisted that the act of the 27th of June, 1864, (see vol. 14th, Statutes at Large, page), entitled: "An Act to Regulate the Fees of the Clerk of the Supreme Court, District Attorney and Marshal of the District of Columbia, and for Other

Purposes," does deny the right of any district attorney or marshal to retain more than \$6,000 per annum for its personal compensation, no matter from what source derived and the question is: "Did the statute apply to the insurrectionary district at the date of its passage, the 27th of June, 1864?" Blackstone says: "The will of the law-maker is to be interpreted by the most natural and probable signs, the context, the subject matter, the effects and consequences, and the spirit and the reason of the law." Had the spirit or reason of the law of the 17th of July, 1862, passed away on the 27th of June, 1864? Was the government less anxious to suppress the insurrection or wish to cool the zeal of the officers of the court, or abate their activity in the execution of law? Stronger reasons did exist in June, 1864, to stimulate such action than in 1862. Is there anything in the subject matter, effects, consequences, spirit or reason of the act of 1864, which implies an intention to repeal, modify or construe the eighth section of the act of the 17th of July, 1862? Upon careful consideration it must be apparent to every intelligent mind that in the passage of the act of the 27th of June, 1862, Congress had not the act of the 17th of July, 1862, in its mind at all, and if Attorney General Bates gave that act of 1862 the right construction, then no reason can be assigned why Congress should have modified it, and if such had been the intention of Congress, is it rational to suppose that so important an act as the chief

confiscation act and a leading war measure would not have been mentioned? By its terms, revenue cases were specially excepted. Was there greater reason for excepting these than confiscation cases? Revenue cases might occur in the District of Columbia, which was not in insurrection; confiscation cases would rarely, if ever, occur there. The caption of the act of the 27th of June, 1864, would impress the mind that it was an act exclusively applicable to the District of Columbia, and that such was its intent is plainly shown by the caption and the terms of the act. The cause of its passage stated to defendant, in Washington, in 1870, is not in proof and therefore not here stated. The first section of said act applies entirely to the clerk of the Supreme Court and the district; the second section declares that no district attorney or marshal of the United States shall, etc. These are the only words in the statute about which there is any dispute as to the extent of its application. Did Congress mean by the phrase district attorney or marshal of the United States to include South Carolina, Georgia, Tennessee, etc., all then in open and flagrant war with the United States, viz., in June, 1864? Any proposition to slacken the energies of those engaged in the effort to suppress the Rebellion, would have met a prompt and decisive rebuke by Congress in that session of '63-'64; looking then to Blackstone's rule of interpretation, how is this law to be construed? The object of the law in

the mind of Congress was to regulate the fees of the officers of the District of Columbia and to limit their compensation by the terms of the act of February 26th, 1853. These courts and officers are United States courts and officers just as much as the District Court of East Tennessee and the district attorney for East Tennessee are a United States court and officer; but the officers of the District of Columbia had been collecting fees under the laws of Maryland and Virginia, or both, without any limitation in the aggregate (see Brightley's Dig., page 236, section 3d, act of 1801), to bring them under the act of 1853, was the design of Congress. The fact that the act of the 3d of March, 1863, was expressly excepted from the operation of the act of the 26th of February, 1853, by the act of the 27th of June, 1864, shows that Congress did not intend to relax its policy to protect the government. To prevent fraud upon the revenue could not have been so important in the mind of Congress as to preserve the life of the nation. In the passage of the act of the 27th of June, 1864, clearly the war was not in the mind of Congress. By the 11th section of the act of March 3d, 1863, two per cent. on all monies realized in any suit under the revenue laws was allowed the district attorney in lieu of all other fees, and in terms the scale of fees and maximum of the act of 1853 were excluded. As the attorney for the District of Columbia would have revenue cases the exception of this act of 1863 was neces-

sary, but in June, 1864, no question had been made upon an account of a district attorney of an insurrectionary district. No construction had been given to the act of 1862. The eighth section of the act of 1862, declared "To insure the speedy termination of the Rebellion, it shall be the duty of the President of United States to cause the seizure of all the estate and property, etc., etc., of the persons heretofore named, etc., for the support of the army of the United States." Thus it is apparent that this policy of confiscation was temporary, and would cease when the Rebellion would be terminated. The court could only allow these officers such fees and charges as were reasonable and proper while the Rebellion lasted, etc. Is it probable or possible that Congress intended to intermeddle in these matters against these officers of the court, while the same Congress was voting bounties to soldiers and giving every encouragement to the uttermost exertion to suppress the Rebellion, then more fierce and bloody than at any previous time? But what motive could have operated upon the mind of Congress to limit compensation to attorneys and marshals in confiscation cases? The attorney must make seizures and libel at his own risk. If no condemnation followed and no probable cause was shown, he got no compensation. The marshal must take the property in hand and keep it, unless replevied at his own risk, for he stands upon the same footing as the attorney. If the object of these officers was

to make money, the hope of making ten thousand dollars per annum would quicken them in the proportion of six to ten. The United States could not suffer any loss by these allowances. They were paid by Rebels whom the government was trying to cripple in their finances that the war might cease. A rational motive can not be conceived to have moved Congress to limit the compensation allowed by the act of 1862, but the second section of the act of 1864, aforesaid, does not apply to confiscation cases from its very terms. It reads thus: "That no marshal or district attorney of the United States shall, by reason of the discharge of the duties of his office, now or hereafter, required of him by law, in any case in which the United States will be bound by judgment, which may be rendered in the cause, etc." But in confiscation cases what would the United States be bound for, if there were no condemnation? If there be condemnation, the act of 1862 greets the property in the United States, and the United States must pay its officers; if no condemnation, the property remains in the original owner, and the allowances are by the act aforesaid, a lien in favor of the officers upon "probable cause" upon the thing seized, enforced by the decree of the court. If the property should in the meantime be destroyed, or the defendant be insolvent, the officers have no remedy, as none is provided by the act. Such allowances are not made to the United States for the benefit of the officers, but the law confers

upon the court the power to release the thing seized, upon condition that the allowances are paid. If, in a given case, the court should allow an officer one thousand dollars upon probable cause, and the property should be destroyed, and the defendant unable to pay, would the United States, by any law, be bound to pay that allowance? The Treasury Department would certainly not do it.

It has been shown that the act of 27th of June, 1864, has nothing in it about the war, nor about the act of 17th of July, 1862. The duties of district attorneys were the same after its passage as before—property must be seized and libeled; the courts must decree allowances—must be made just as before, so that they were reasonable and proper, which phrases, “reasonable” and “proper,” fixed the rule of compensation and the only limit. Did the act of '64 repeal this rule? If so, what rule was abolished? not the scale of fees of the act of 1853. Attorney General Bates said it was a new class of business and Congress had seen proper to put the compensation of such officers upon a “new basis.” What became of this basis under this act of '64 as construed by the United States? Did Congress mean to say in that act of 1864 that the attorney in Maine or New Hampshire should have as much as the attorney in the insurrectionary districts? No new class of business in the first, and red-handed war in the last raging fiercely at the time of its passage.

Did Congress mean to say by that act of 27th of June, 1864, that \$6,000 (and no more) was a reasonable and proper allowance to the attorney and marshal in districts in rebellion without actual knowledge of the circumstances and service, notwithstanding the courts which knew all about it said it should be \$10,000? Did Congress mean to say this as to confiscation cases, and yet in the same act except revenue cases, and on the 30th of June, 1864, three days later, by another act, declare that prize cases should not fall within the rule of the statute of 1853 (see 13th volume statutes at large, page)? But observe how narrow is the margin upon which the United States construes this act of '64. The only words in the act that give the slightest color to such construction are the words "United States." If the act had read, "No marshal or district attorney of the District of Columbia shall, etc.," it would have been consistent with the caption which names the marshal and district attorney; and if the marshal and district attorney are not U. S. marshal and district attorney, then the act does not regulate their compensation at all, and is a departure from the caption. Observe also the terms "marshal" and "district attorney" in the act are in the singular number. How the words "United States" got into the act may not be certainly known, but the presumption is legitimate that "United States" was put into the clause instead of "District of Columbia," either by oversight or as descriptive of the

persons named in the caption and meaning to designate the same officials. I conclude the argument of this first ground of defense, viz: that there is no law which requires me to account for confiscation allowances under the sixth, seventh and eighth sections of the act of 1862; first, by resting the true interpretation of that act upon the circular letter of Attorney General Bates and the argument now submitted, and second, that the act of 27th of June, 1864, was intended to apply to the District of Columbia alone, and cannot, in the light of all the circumstances of time, condition of the country and form of the act, with the contemporaneous legislation by the same Congress, be rationally supposed to have been intended to touch the act of 1862 in any of its provisions or consequences; and as it will be conceded that the confiscation allowances to defendant as district attorney in the years 1865-6-7 exceeded \$8,000, it follows that defendant is not indebted to the United States a dollar, as not a dollar of the \$8,000 was received except from defendant by decree of the court upon the release of the thing seized and the rule of probable cause. The second ground of defense is that the account sued on embraces only three years of defendant's term instead of four of his actual service. Large earnings in the fourth year being omitted. Defendant refers to transcripts No. 1, 2, 5 and 6 from the records, as also the copy of account sent to Washington and the emolument return for the fraction of the year 1869, and

explain that the defendant was not called upon or notified to settle with the United States until February 26, 1876, nearly seven years after his term expired. Defendant had caused transcripts to be made from the records of the courts showing every case in which he had not received any compensation. In May, 1870, he took these transcripts to Washington to settle his account, and for the first time learned that the department would not allow him to retain confiscation allowances, and was shown the act of 1864. Defendant interviewed the district attorney and clerk of the Supreme Court of the district, examined the act and became satisfied it had no application to his account. Defendant filed two of the transcripts and had an account presented to the comptroller upon which the subordinate in his office refused to act. Congress had changed the time of holding the courts in East Tennessee in 1868, by which half the business of that year was thrown into the year 1869. Defendant's emoluments at the January term, 1869, ran up to \$14,000 to \$15,000. Judge Nelson, deceased, prepared a memorial to Congress to cover the case (which memorial is still before Congress). This memorial was before Congress in May, 1870. It was then understood by defendant that no settlement would be made of his account until Congress acted on his memorial, and thus the matter stood until February, 1876, when defendant was notified that his account was made out for three years showing a balance

of \$7,097, and defendant was required to pay it. Defendant replied that the memorial was still before Congress, and immediately he was sued. Defendant received no answer to his letter to the comptroller, and without giving time to know what he must do he was sued. (See letter, etc.) The comptroller's letter bears date of February 26, 1876, and the suit was brought March, 1876. After this suit was brought defendant made repeated attempts to have the account modified and his credits allowed without success, and on the trial was unable to get in a dollar of his credits, notwithstanding the United States Attorney admitted in open court that defendant had credits, but they had not been properly presented at the Treasury before the suit was brought, and they were excluded. Defendant here offers two accounts, marked Nos. 1 and 2, sent to Washington since the trial and the copy of the letter of the comptroller to the said district attorney since received, which show that defendant in any aspect of the law does not owe the United States anything like the sum claimed upon the trial. But the comptroller ignores in the letter all the credits falling within the years 1865-6-7, amounting to a large sum. Thus it is apparent that gross injustice will be done defendant by holding him to account for three years of his term and ignoring the fourth. The third ground of defense is that credits applicable to the years 1865-6-7 excluded as credits but charged as debits in these years, viz:

Acquittals by jury trials, nolle prosequis, dismissals, insolvencies and abatements. (See transcripts Nos. 3 and 4.) These cases were included in emolument returns for these years, but not collected or received by defendant. The fourth ground is that the United States makes defendant's emolument returns proof against him, but not for him. These emolument returns are made under oath. They state the gross earnings in each half year; they state the sums not received in each half year. These returns furnish the data or evidence upon which the account is based. Upon what principle of law or justice they can be used to charge and not to discharge *prima facie*, defendant cannot understand. If a given sum is reported as earned and only one-half of it received the statement rests upon the oath of the officer and the records of the courts open to inspection, which are presumed to speak the truth, it would be easy to show how the facts are.

Defendant admits the doctrine of strict accountability to the government, but begs leave to demur to the requirement of the comptroller as the defendant understands it, that the defendant should state on oath each case in which he has not received his fee and the reason why it could not be collected. Defendant never did understand that he was required to do more than take judgment, see that execution was issued and property returned. The transcripts—six in number—referred to and now on file in Washington, show these

things. Is defendant required to go behind the returns of the marshal and inquire into the pecuniary condition of every defendant in the courts, especially in view of the facts that nearly seven years after the expiration of defendant's term had elapsed before said account was presented against defendant? If the department had made annual settlements of defendant's account as the law requires and law had been insisted upon as now, this difficulty could not have occurred. A construction of the law in 1866, so soon after its passage, would have been obtained and Congress might have explained its own meaning. At all events defendant would not have left under the delusion, if it was a delusion, as to how much he might retain. But defendant and his Honor who made the allowances not only thought defendant entitled to retain confiscation allowances, but never heard of the claim set up under the act of 1864 until May, 1870, more than a year after defendant's term expired, and no account was made, at least defendant received no notice of it, until 26th of February, 1876, as before stated, and then only for three years of defendant's term, although two of the transcripts, aforesaid, Nos. 3 and 4, showing credits to which defendant was entitled upon the account for these years, 1865-6-7, due to defendant, and an account had been made from them in 1870 and verified by defendant's affidavit, yet no notice was taken of them; so that the court erred upon the trial in not allowing these credits,

for they had been presented to the department. By the eighteenth section of the act of 26th of February, 1853, it is provided that every such officer (attorney or marshall) shall with each such return (emolument returns) made by him pay into the Treasury of the United States, or deposit to the credit of the Treasury thereof, as he may be directed by the Secretary of the Interior, any surplus of the fees and emoluments of his office which his half yearly returns so made, as aforesaid, shall show to exist, etc., and in every case where the returns of such officers shall show that a surplus may exist, the said Secretary of the Interior shall cause said returns to be carefully examined and an account opened with said officer, etc., and the allowance for personal compensation for each calendar year shall be made from the fees and emoluments of that year, etc. It is clear under these provisions a practical settlement of account is required at the close of each half year if there be a surplus of emoluments. Defendant respectfully asks if this act of 1864 was understood to apply, as now claimed, in 1865-5-7, why was not an order made upon defendant to pay these excesses at the close of each half year, or at the close of each year, at least? It is true the defendant was not drawing money from the Treasury except the little salary and his per diem and \$100 in the Chattanooga Cemetery case, but every dollar earned or received was reported at the close of each half year, and if the account required by the law,

aforesaid, was kept, these excesses or surpluses were known to the department. Under the belief that defendant was entitled to all emoluments in confiscation cases he certainly would not think of any duty on his part to make deposits, and he was not required to do so by the Secretary of the Interior, as he must have been to have known how to make said deposits. If defendant had known that he could have made out an account against the United States at the close of each half year for all his fees and emoluments, and had the money paid him from the Treasury, he would certainly most willingly have done so; but defendant was attorney for the district in 1841 and then acted under the practice in the State as to fees, and not seeing anything in the act of 1853 authorizing the payment of fees, otherwise defendant acted in 1865 and through his term as he had done in 1841, and waited until the monies were paid into court for his compensation and drew them from the court. Again it is shown by defendant's emolument returns for the half year 1868 that there were \$1,144 not received, and by the returns for the last half of that year that defendant had received of that sum \$292, leaving \$1,108 not received in that year; yet this is wholly omitted in the account sued on. Can the United States make an account after the expiration of defendant's whole term and ignore more than a fourth of it? These emolument returns for 1868 were made in due time and were in the department. No

emolument returns were made for the half year of 1869, because the January term was so voluminous it was impossible to get the data in form to make it before defendant's term expired, and the transcripts referred to were made out for a full settlement.

In conclusion, first, I insist that the judge who tried the cause mistook the meaning of the law and ruled contrary to it, for all the reasons stated. Second, That defendant does not owe the United States anything; but in any aspect of the law the account sued on and the action of the court upon it are erroneous for the various reasons assigned. Defendant held the office four years, earned upwards of \$40,000, received a little over \$18,000, was entitled to retain for his own compensation even by the act of 1853 \$24,000. The United States say defendant received \$24,212. If the \$24,000 had been distributed into the four years, as might have been done without any wrong or lack of duty, it would have been all right under the act of 1853; but it was not for two reasons: First, Defendant believed, and still believes, that he was entitled to all confiscation allowances under the act of 1862, and second, because Congress changed the terms of court in 1868 and cut off one term of that year, throwing the business that would have been done in November, 1868, over to January, 1869, when defendant's emoluments ran up to some \$14,000, and this was the cause of the memorial to Congress. If defendant mistook

the law, it was his misfortune; if the authorities at Washington knew the law they should have brought it to the attention of the defendant by an order to pay over surplus. Failing to do this, and springing this suit upon the defendant so stated, defendant is involved in the charge of retaining money which did not belong to him. The rule of the common law is, "The king can do no wrong." How far this principle should be applied in a republic may be debated; but natural justice must recognize the rule that the failure of duty by a superior officer which involves the duty of a subordinate must wholly excuse the latter, or greatly modify his blameworthiness, according to circumstances. But if the argument herein presented be sound, the idea that the Secretary of the Interior omitted his duty is excluded. He doubtless acted under the construction of the act 17th of July, 1862, and that of 27th of June, 1864, in this brief stated, and directly under the interpretation of the first named act given by Attorney General Bates, January, 1863. Finally, defendant submits that a new trial should be granted, first, because the court mistook the law of the case in construing the act of the 27th of June, 1864, as referring to the eighth section of the act of the 17th of July, 1862; second, in refusing to allow evidence of defendant's credits to go to the jury, an account for some of them having been offered to the department; third, in holding and instructing the jury that the United States may make and

collect an account against an officer for part of his term of office after his whole term has expired and seven years' delay, and no former account rendered nor demand made upon such officer to settle accounts; fourth, that emolument returns of an officer are evidence for the United States, but not for the officer, to charge but not discharge him; fifth, because the Comptroller of the Treasury admits defendant is entitled to credits for the portion of the year 1869, but does not allow defendant any credit for sums charged against him, but not received, or sums taxed against the United States in the cases of acquittals by jury trials, *nolle prosequis*, dismissals, abatements and insolvencies in the years 1865-6-7; sixth, because no fair trial of the case was had, for though the district attorney objected to evidence of defendant's credits, yet, at the same time, admitted that defendant had credits which he must assert in the Claims, thus springing the suit upon defendant and then relying upon it to cut off the credits (see *afft.*); seventh, in refusing the motion made by defendant to allow him to file a plea of set off upon the ground that defendant could have the full benefit of it under the general issue, to which defendant excepted.

Lawyers are apt to regard their presentation of a case as strong if not conclusive. In the present case the lawyer submits the facts and law presented to the impartial and candid judgment of the intelligent reader, and feels assured that it will at least

justify the remark of the judge who tried the cause, Hon. Connelly F. Trigg, that it was a case which should go to the Supreme Court of the United States, and was not taken for the reason stated, viz: the discharge of the rule for a new trial was not known until the elapse of a month, when it was too late to pray an appeal or file a bill of exception. A story is told of a man who burned the temple of a heathen god. Being arrested for the crime, an unusual punishment was inflicted. Under a towering cliff on the sea shore he was chained to a rock. At the topmost verge of the cliff a massive stone was placed on a pivot and immediately over his head, so that the slightest force applied would overwhelm the victim to its crushing fall; and thus he remained from day to day in a suspense worse than death itself. There are some points of difference in this case and that of the lawyer's. The crime of the latter is not capital, nor can the judgment be satisfied because the government has left the lawyer too poor, but those who would take such a judgment as that against the lawyer would take the last night-cap in the wardrobe if one could be found and the law would permit.

CHAPTER XXXII.

THE legislative department of the government passes laws and the executive department construes them and prescribes rules and regulations as they choose. In some cases the courts may be applied to, and some laws are interpreted by them which the executive must respect. But there are instances in which the executive department claims authority paramount to the courts. One such instance occurred in the lawyer's experience. He had become security for two men for a bond of \$10,000. The men forfeited the condition of the bond and became liable for the penalty. The lawyer was sued upon the bond as security and had to pay a large sum. Forthwith he took judgment over against his principals. One of them had a claim against the United States for property lost in the war, for which a warrant was issued and sent to a claim agent for the benefit of the claimant. Upon being informed of these facts the lawyer filed a bill in the Chancery Court and attached the warrant in the hands of the agent, making him and the claimant parties. The case was heard, a decree pronounced and the warrant subjected to the lawyer's debt. The agent was appointed receiver, with power to collect the

debt, which, with a copy of the proceedings, were sent to Washington and payment demanded. Such payment was suspended for more than a year and finally refused upon the ground that no Federal or State court had any right to interpose between the United States and its creditors, so that the lawyer got nothing by his bill. But disappointment in such matters from that quarter had become the rule and not the exception, and the debt was lost. (The synopsis of the opinion delivered by the comptroller, the reasoning of which is not at all satisfactory to the lawyer's mind.)

TREASURY DEPARTMENT OF THE UNITED STATES, }
Division of Wm. Lawrence, }
First Comptroller of the Treasury. }

In the matter of the payment of a Treasury draft:

First. The Legislative, Executive and Judicial departments of the government are, respectively, as to all powers, exclusively conferred upon each independent of the others. Hence, a power exclusively vested in an executive officer can be executed by him only, and no other department or officer of the government can interfere with, determine or change the manner or result of its exercise.

Second. The accounting officers of the Treasury Department are charged with the duty generally of ascertaining all sums due to creditors of the government, and these may be paid by drafts drawn by the Treasurer on the Treasury or a de-

positary. No court can interfere with or control the accounting officers in determining who are creditors, the amounts due or to whom payable.

Third. The statute requires the Treasurer or depository on which drafts are drawn to pay the same to the payee or indorser. Hence, no court can by any process or proceeding require payment to be made to or for a creditor of the lawful holder of such draft or otherwise interfere with the payment to such holder.

Fourth. The decree of a court appointing a receiver with power to endorse and collect such draft for the benefit of a judgment creditor of the holder thereof, is in contravention of the statute and void.

Fifth. It is competent for Congress to entrust to the judiciary the determination of questions affecting the rights of parties except as to matters over which the Constitution has given executive officers exclusive authority.

Sixth. The sovereignty of the United States and the authority of a State are distinct and independent of each other.

Seventh. Hence, the government of the United States has the exclusive authority to pay its own creditors in such manner as it may determine; and no State court or other State authority can interfere with the manner of payment or divert the payment from the payee designated by the laws of the United States.

Eighth. A draft drawn by the Treasurer of the

United States on a depositary transfers no title to any specific money until paid. Hence, such draft is not property in the sense that it is subject to the control of courts.

Ninth. An executive officer charged with the duty of ascertaining who are public creditors and the amounts due them cannot delegate that duty to a court or other tribunal or person.

Tenth. The duty of disbursing officers of the United States prescribed by statute to pay drafts to designated persons cannot be diverted by any court, national or State.

Eleventh. How far courts may appoint receivers or grant injunctions, and prescribe duties or determine rights, or control conduct of claimants not affecting the adjudication or payment of claims or drafts by executive officers it is not the province of executive officers to decide.

Twelfth. There may be transfers of drafts by operation of law.

In the lawyer's early observation in the courts he knew two old lawyers who were often found on opposite sides of a cause. Both were quick-tempered and tenacious of their opinions, and as pugilism in those days was regarded as not very unwholesome exercise and an entertaining pastime to spectators, they frequently used upon each other (as another old man used to say) arguments about the size of a man's fist. They were equally plucky, but one was the physical superior in the rough-and-tumble; therefore, in their competitive

efforts he had the advantage, but the weaker belligerent was always ready to try it over again. "Yes," said the victor, "I keep him to whip, whenever I want to whip somebody." The lawyer in his tournament with the quill and red tape came to the conclusion he was kept for a like purpose, and, as a consequence, has reached the following resolutions.

First, That the United States is richer, and therefore stronger than the lawyer.

Second, That accounts with the government may be so manipulated that a small servant of the government may earn \$40,000 and be forced to put up with the fourth of that sum as per agreement. Thus, \$40,000 earned, \$18,000 received, \$7,000 required to be returned, leaving \$10,000 out of the \$40,000 earned; or taking the account as stated by the government: \$24,000 earned, \$17,000 allowed as compensation, \$18,000 received, and \$8,000 of that sum to be restored, leaving \$10,000 out of the \$24,000. But \$18,000 was not received within the three years covering the \$24,000 charged, so that taking the account for three years only as \$24,000 earned, the sum received being less than \$18,000, it is the sum of \$—— from which \$8,000 must be taken by the judgment, which would leave the real amount of compensation according to the account of the sum of \$——; so that out of gross earnings of \$40,000 the lawyer practically gets less than \$10,000. His memorial is still before Congress, but as he expects

little he does not fear to be disappointed. The lawyer, therefore, makes his bow to the great republic (the so-called *pater patria*) and retires in disgust with himself for having been so long upon a fool's errand.

CHAPTER XXXIII.

IN the olden time the bar and bench of Tennessee were distinguished for strong common sense and honest motives. They were pioneers in the profession and organizers of Tennessee jurisprudence—free from the corrupt influences of a depraved civilization. Their virgin sod and primitive mode of life evolved simple laws and honest interpretations. “Their eloquence was born of the storm clouds which rent their mountains or swept their valleys, or torrents plunging from precipitous rocks into subterranean pathways to spring forth at some distant place into floods of pure waters. The true definition of eloquence is the power of expression in speech. Not the smooth-tongued oratory which covers the thought with roses of rhetoric so that the sound leaves no sense behind it, but the simplicity of truth and fact uttered in words expressive of the convictions of the heart. More modern elocutionists may have been successful in mere word painting, and in light forensic skirmish show sharp wit and ready repartee, yet the maul and wedge of the olden time sundered truth and error, right and wrong, with a force that only the brawn and muscle of such minds could exert. Good laws are the legitimate fruit of prin-

ciples which spring from nature, and nature's God. "Justice and judgment are the habitation of thy throne: mercy and truth shall go before thy face." The eternal principles of right and wrong, good and evil, never change, nor can ever be destroyed. However, they are fearfully besmeared with the filth of human depravity. Modern civilization gives polish to the manners, but leaves the matter of human opinion and action depreciated by the substitution of show and sound for sense and substance. The pioneer in every department rough hews the primitive substance, and more delicate and effeminate hands and minds add the dressing; and the dressing is often not an improvement, but a distortion of the original, and not creditable to the dresser. This would be a curious and interesting speculation to contrast the simple, straightforward utterances of the bench of the olden time and the wordy, tortuous metaphysics of modern judicial opinions. If we have not already reached the point, we certainly soon will, when such metaphysics will be employed to shut out truth and right and put wrong in their places. That there is decadence in simple dignity and love of truth and justice in official life, whether political or judicial, cannot be truthfully denied. Forty years ago a chancery judge would not tolerate an argument which did not discuss the question involved, and yet would show such consideration for the solicitor and his client as to give no offense to either. The lawyer himself has wit-

nessed the sense of truth and fairness in the heart of the judge when, upon the discovery of an attempt at advantage by one party on account of the absence of proof of a particular fact known to the party making the objection, the judge promptly required such party to state how the fact was, and the objection was withdrawn.

In the Supreme Court of Tennessee, in the olden time, a distinguished lawyer pronounced an opinion in a given case, and inadvertently overlooked a single point in the case. When the opinion had been announced the solicitor of the losing party arose in the bar and respectfully suggested the omission of that point. The honest and noble-minded judge immediately withdrew the opinion for further consideration. How would such a case be treated now? The modern lawyer's experience upon that subject is somewhat different. An honorable LL. D., or a modern chancellor would answer, "The case is decided," or, "We hold against you in that point;" and instead of forcing a party to tell the simple truth, would lug into the case rejected depositions admitted not to be proof, but to be looked to as corroborative of some other statement just as false, and eventually decide a case upon assumed "probable equities." The contrast will be sufficiently clear by the statement of a modern case in our high courts. Two female children of a deceased father were entitled to a share in their grandfather's lands. Petition was made, and to equalize the shares, as was said, that

of the children was charged with a sum equal to half the value of the share. These infant girls had a guardian, but no means to pay this charge upon their share. To discharge this lien, therefore, the guardian filed his bill in chancery to sell their share of the land. It was sold and the sale money brought into court, paid over to the clerk, the lien on the land paid off, the cost and solicitor's fee paid, leaving a few hundred dollars in the hands of the clerk for the children. The guardian did not draw the sum from the clerk. The clerk placed the money in bank, but without any order from the court or guardian to do so. The bank and deposits went on an excursion down into Dixie and got tangled in the brush and bogs of Isham G. Harris's portable sovereignty. After the girls got old enough to understand they had some rights, an attorney was employed. He found the clerk in office and the guardian still alive. The only answer to the attorney's inquiry was that the bank took off the money and there is no fund to pay the claim. If an order of the court had been made upon the clerk to pay over the money it would have been met precisely as it was in his answer—that the money had been taken off by the bank and there was no fund in court. The attorney thought the guardian should be liable upon the well settled principles (applicable to executors and administrators) of liability for all monies which came, or with reasonable diligence might have come, into his hand. He filed a bill against

the guardian and the clerk in the name of a next friend. There was no contests over the facts. The chancellor held the guardian not bound because there was no order of the court to pay out the money to him, and this in the face of the fact that the guardian had filed the bill to sell, and had an order made to pay the lien upon the share, the solicitor's fees and costs of the cause. His plain duty was as that of the solicitor to see that the money was paid over to the guardian for the benefit of his wards, as while it remained in the hands of the clerk it drew no interest and was a dead fund. As to the clerk, the opinion was reserved to await the result of a suit against the bank to recover the assets. The case against the guardian was appealed, and as the fund had gone down into Dixie, the sympathizing Supreme Court affirmed the chancellor's decree. After long delay the suit against the bank was decided in favor of depositors, and a new chancellor having been installed, he rendered a decree against the clerk for the fund and interest. No appeal was taken by the clerk, and not long afterwards the clerk died and the administration upon the estate was granted to his son, who sued out a writ of error to the Supreme Court. In that court the only LL. D. on the bench presiding said, "Reverse the decree." If the other judges said anything or knew anything of the case, or approved or disapproved of the action of the presiding judge, except as here stated, the same has not transpired. And thus by a sort of

grasshopper-jumps, these children have lost their little patrimony, and their security the costs of the entire case. It is due to other members of the court that they are not held responsible for the results, as the papers were not in the hands of the court, except as in open court, and no consultation was understood to have taken place. A Haywood, a Nathan Green, a Robert Caruthers or R. J. McKinney would scarcely have decided a case of that character in that manner.

The Savior said to the Pharisee, "Ye blind guides which strain at a gnat and swallow a camel." Whether this has a truth in it applicable by easy reference in this connection is submitted with the remark that to tithe mint, anise, and cummin, and omit the weightier matters of the law—judgment and mercy—are not commendable in religion or law, and sooner or later will bear bitter fruits. The real trouble is, the judiciary has been degraded to the political standard. In the olden time judges were elected by the Legislature; by one hundred electors instead of more than one hundred thousand. In the former mode responsibility was fastened on a few persons who could be held accountable for their actions by name, and as all honest and intelligent citizens agreed that the best talent, learning and moral character should be placed in such offices, such would be the general result in glaring contrast with the present system. A canvass for judicial office differs little now from a mere party scam-

ble, and it is feared much the same means are employed in securing judicial and political offices. Money and promises of place when employed are potent factors in all such contests. The observation and experience of thoughtful minds strongly incline to the belief that the nearer the laws and public institutions of the country are brought under the direction of the masses, the more certain the demoralization and the tendency to disregard moral and legal duty. Even that time-honored institution, the boasted bulwark of individual right and public safety, the trial by jury, under the present order of things has become the lawyer's instrument to deprive an honest man of his property and to open a back-door for the escape of criminals in many instances.

CHAPTER XXXIV.

SOLOMON, the king of Israel, was a great statesman and a wise ruler. The Jews, though greatly degenerated from the times of Moses and Joshua, were still the objects of divine favor. The revolution which placed David on the throne was a special Providence to inaugurate the splendid epoch of Solomon's reign and the building of the temple; but glorious as was the kingdom of Israel through the greater part of his reign, yet his sun sat under a cloud and the kingdom went to pieces upon his death. This case furnishes the best parallel to all national declination, because of the peculiar instruction and privileges which the Jews enjoyed. If this most favored nation did not appreciate its blessings and improve its opportunities to perpetuate its institution and make permanent its national power and glory, then nations less favored than this was, with the highest material and spiritual advantages can not be expected to preserve their national integrity or permanent free government. What then of our great republic? The Jews were brought out of Egypt from a most grievous physical bondage. The Pilgrim Fathers fled from spiritual oppression. The Jews preserved their religion and their simple theocratic in-

stitutions for a time, but waxing numerous and rich they gradually lost their love for simple equality under divine government and desired a king. Does not the history of the world demonstrate the fact that as nations become populous and wealthy, the natural depravity of man becomes more fully developed, until its licentiousness can only be restrained by physical force? Our republic has lived a century, how much longer will it live? Its present outlook does not promise great longevity. The chief danger does not lie so much in the open vices of communism—infidelity of the Ingersoll type, Roman Catholicism or any false religion palpably hostile to the doctrine of the Holy Scriptures, baneful as such vices are to that Republicism born of religious oppression, whose chief corner-stone is Protestantism—but in the depravity between the great multiplication of our people and the increase of our wealth and power as a nation on the one hand, and the comparatively small amount of that practical, heart-moving and life governing Christianity, expressed in the phrase (godliness), “The form of religion without the power.” The President of the republic goes to church on Sunday morning, when not otherwise engaged, and to the theater as well. Each house of Congress opens its sessions with prayer by the chaplain and the members too generally smoke cigars, drink whisky and make speeches for notoriety and popular favor. Splendid temples are built at immense costs and dedicated in solemn form to the worship

of the true God, and the glitter of wealth and fashion throning them to sit on silken cushions and enjoy waking dreams under the deep, dulcet tones of the organ, or the silvery sounds of enchanting oratory, while the poor and rough-clad glance a wistful eye upon the pageant and pass on saying: "It's no place for me." Large assemblies, associations, conferences and councils meet to conserve the interest of their denominations; they pray, some talk a great deal and go on excursions occasionally, but very rarely do the reports announce the glad news of the outpouring of the Holy Spirit, the awakening and conversion of souls as the result of such gatherings of Christian forces. The Christian minister, salaried at three, five or ten thousand a year, becomes so worn with his heavy charge, his people think he must have a vacation, and he sails on railroads to inhale the sea breeze or mountain air for weeks or months at the very time when old people and children can best attend upon divine worship in the sanctuary. Then sums are gathered for the evangelization of our own land and to spread over the dark continents the knowledge of the true God and his Son in human nature—the only Savior of the world, and missionaries are devoting themselves to the great work at home and abroad, with consecration and self-denial, which will, in the great eternity give them a reward suitable to the munificence of the Prince they now serve. But what proportion is there between their labors and sacrifices and the

monies thrown into the Lord's treasury and the souls saved? What has become of the discipline of the Church? May the church-members practice the vices of the worldly with impunity. How much private, social and public prayer reaches the heart of Christ and invokes the Holy Spirit's power, and when men are to be elected to fill responsible public trusts, where is the Church found? How many Baptists, Methodists, Episcopalians, Lutherans, Presbyterians and other denominations are there in the most cultivated and favored districts of the nation, and how many men are in Congress, or State Legislatures, or judicial offices, whose lives attest their love of virtue and obedience to divine law? Now let this panorama of human life be closely studied, look through the lights and under the shadows and forecast coming events. Ignorance and unbelief of divine revelation are the servants of the devil. Vain is the talk about the necessity of education and the appropriation of public money to that object by men of the world. The unclean spirit goes out under the pretense of making men wise and makes them tenfold more ignorant of true wisdom. The seven thousand whose purity of life and acceptable prayer preserves the nation now from moral and physical putrefaction, stand upon the only ground of individual or national safety, faith and trust in God and hearty obedience to his revealed will. Individual lives aggregated make national life. Many a single life casts its mite or its monument into the

life of the nation. Individual man, what is your character? Your reputation is a different thing. The world probably holds you in high esteem; for what? For your money, for your *suaviter* of manner, or your eloquence, or your political prominence, or other kindred qualifications? The question still is: What is your character? It is not generally on the surface. Its home is in the heart. Overt acts are not needful. Out of the heart proceed evil thoughts—murders, adulteries, fornications, thefts, false witness, blasphemies, envy, hatred, covetousness, pride. If any, or all of these are in the heart, however restrained by fear or shame or worldly policy, they stamp your character. On the other hand, if your heart is set upon things that are honest things, that are just things, that are pure things, that are lovely things, that are of good report, these mark your character. Though the world may not know it, for the highest virtues are often least showy. Conscience is the sentinel between the faculties of the mind and the emotions of the heart. Let it speak out and every man will know himself. The Bible represents the natural heart by the figure of the cage of unclean birds, deceitful above all things, inclined to evil continually and desperately wicked. Then, oh man! if you are not a Christian, what are you? Whither are you going? Shall the evil thoughts and the long and dark train, which follow as a troop, occupy your mind and fill your heart forever? If so, you are lost. Gambetta,

the great and distinguished Frenchman is dead; died in the strength of his manhood and maturity of his powers and fame. Amongst his last assurances were these words: "I am lost, 'tis useless to disguise it." He was the idol of the French republic, but the enemy of God. Are you God's enemy? Think of this. Are the masses of the American people God's enemies? If they continue to be, what will become of the nation? Study Jewish history and supplement it with that of all other nations, and you will have the answer with mathematical exactness. Man, do you desire to be happy? then seek to be virtuous, not merely worldly, morally, but that virtue which is formulated in the precept: "Thou shalt love the Lord thy God with all thy heart and thy neighbor as thyself"—the central force of which is love and without it you can not be happy. La Place said to Segwick, of Cambridge, "I have lived long enough to know what I did not at one time believe, that no society can be upheld in happiness and honor without the sentiments of religion," and the man of threescore years and ten, testifies that he has never known an irreligious happy man. A millionaire and a man of a hundred and fifty thousand met in New York. The latter said to the former: "You sir, must be a very happy man." "Why?" said the millionaire. The other answered: "Your immense wealth gives you all you can need or wish." "How much are you worth?" asked the millionaire. The other replied:

"About one hundred and fifty thousand dollars."
"Well, you can buy all you need," said the millionaire. "What more can I do? You, sir, can be as happy as if you were rich." Were either of these men happy? No. Why? Because it is impossible that any possessions, intellectual or material, which begin and terminate in self and do not reach to that eternity for which the soul of man was made, can satisfy that soul.

Dr. Upham tells the story of an interview between a great divine and a poor beggar. The divine saluted the beggar: "God give you a good day, my friend." The beggar answered: "Sir, I do not remember that I ever had an evil day. When I hunger, I praise God. If it rain, hail, snow or freeze, if it be fair, or foul, if I am despised, or ill-used, I return God thanks. I have learned to resign myself to his will, being very certain that all his works are good, therefore I never desire anything out of the good pleasure of God." The divine asked him "When he found God?" He replied: "I found him when I renounced all the creatures. "And where did you leave him?" asked the divine. He replied: "With the poor in spirit, the pure in heart, and men of charity." "Who are you?" said the divine. "I am a king," said the beggar. "Where is your kingdom?" said the divine. The beggar answered: "In my soul. I have learned to bring into subjection and to govern my senses, as well outward as inward with my affections and passions, which kingdom is un-

doubtedly superior to all the kingdoms of this world." The divine asked him: "By what means he had attained this state?" He answered: "By silence, watchfulness, meditation and prayers. I could find no sure repose or comfort in any creature in the world; by means thereof I found out my God, who will comfort the world without end." This is just the state which every human soul should desire to attain, for there is no real permanent rest to the soul in anything short of a full and entire consecration to the will and service of the Lord Jesus Christ. No compromise with the world or divided service, part to the master, or part to the great enemy of souls, can result in anything but unrest and very limited usefulness. And here is doubtless the explanation of the disproportion between the multitude of professing Christians and the monies contributed to spread the gospel, and the number of those who give satisfactory evidence that they are saved. The distinction between saints and sinners should be as clearly shown in actual life as that of two opposing parties on a battle-field. The Christian life is a warfare; his enemies are the world, flesh and the devil; the earth is the Lord's, but the devil has made insurrection on it, and the rightful sovereign has come to recover possessions of his own. Who are on the Lord's side?—those only who have consecrated themselves to fight his battles and win victories for him—no traitor or deserter is. If all professing Christians were of this kind, the king-

dom of darkness would be overthrown, for if only two or three unite to ask anything according to his will, it will be granted surely; the prayers of the whole Church would not be disregarded. Spiritual light would break over the continents with the glory of a noonday sun and the song of peace on earth and good will to man, would be the refrain of earth to the anthem of the heavenly chorus at the Savior's birth. The old man standing on the shores of time and looking into the unbounded space beyond, and assured he must appear in the judgment hall of the universe at no distant day, where his true character will be revealed and his indefinite future fixed, is earnest to know himself now. It is a matter of small concern what the world thinks of him, except as his reputation affects his influence for good or evil. The closest scrutiny of his past life discloses nothing which meets the unqualified approval of his own conscience; all he can say is: "The blood of Jesus Christ cleanseth from all sin," and with the publican: "God be merciful to me a sinner," and "I trust I have believed, and am persuaded that he is able to keep that which I have committed to him against that day." Reader, there is no bridge over the river of death, nor is there any Savior on this side or that but the Lord Jesus Christ. Commit your soul to him now. Serve him now. The tomorrow never comes. Do not copy the follies of the old man's youth, or the positive wrongs and

omissions of duty of his mature life. Beware, your sin will find you out.

The only man whose life will not be a failure is he, who, from infancy to death, consecrates all his powers to the service of God and man ; such only can attain the highest reward.

THE END.





